

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION**

UNITED STATES OF AMERICA,)	CRIMINAL ACTION NO.
)	
Plaintiff,)	4:24-CR-00001-Y-1
)	
v.)	
)	
JOHN ANTHONY CASTRO,)	
)	
Defendant.)	
)		

DEFENDANT’S PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW

Defendant John Anthony Castro submits the following proposed findings of fact and conclusions of law for the Court’s consideration in advance of the bench trial set for May 20, 2024.

Proposed Findings of Fact

The defense contends that this case necessitates no fact finding apart from the ultimate issue of guilt or innocence. Nevertheless, the defense provides the following detailed information in relation to each count to assist the Court in its evaluation of the evidence.

For context, the government challenges multiple deductions contained in the 33 tax returns underlying the counts set forth in the indictment. The defense contends that some such deductions were based on Mr. Castro’s good-faith belief that the reporting position at issue satisfied the “reasonable basis” tax-reporting standard, allowing for the filing of a tax return with the positions at issue and negating willfulness. Some deductions, on the other hand, arose from software errors, data entry errors, and other preparer errors.

Count Matrix

The foregoing discussed tax arguments on which Mr. Castro relied apply to the tax returns that relate to the counts of the indictment according to the following matrix.

Count	Name	Int/DE/Rev	Sec. 62	Sec. 119	Impair	Deprec.	Commut.	Chr Mtg	Childcare	163(h)(3)(E)	Software Error
	Memo §		II(B)(11)	II(B)(5)	II(B)(13)	II(B)(2)(b)	II(B)(2)(a)	II(B)(7)	II(B)(6)	II(B)(8)	
3	Boggs 17	JSM/ADL	✓			✓					
4	Boggs 18	TMH/ADL/TH		✓		✓					
5	Boggs 19	VTI/DG/TH		✓							✓
2	Clayton 17	JSM/ADL	✓			✓	✓		✓		
1	Jackson 17	IG/ADL	✓			✓					
9	Kara 17	IG/ADL	✓		✓		✓				✓
10	Kara 18	IG/ADL/KH/TH	✓	✓		✓	✓				
11	Kara 19	VTI/KH/DG/TH	✓	✓		✓		✓		✓	
28	Lampkin 17	JSM/ADL	✓								✓
29	Lampkin 18	TMH	Error	Error	Error	Error	Error	Error	Error	Error	Error
21	Meyer 17	JSM/ADL	✓				✓			✓	
27	Natt 17	IG/ADL	✓		✓	✓	✓				
26	Putica 19	KH/ADG/TH	✓	✓		✓	✓				✓
25	Quigley 17	JSM/ADL	✓				✓			✓	
12	Ragsdale 17	IG/ADL	✓		✓		✓		✓		
13	Ragsdale 18	IG/ADL	✓		✓	✓	✓		✓		
14	Ragsdale 19	KJB/ADG/TH	✓		✓						✓
6	Rivera 17	IG/ADL	✓		✓	✓	✓				
7	Rivera 18	IG/ADL/KH	✓			✓	✓				
8	Rivera 19	KJB/DG/TH		✓	✓						
15	Sola 17	JSM/ADL	✓				✓				
16	Sola 18	IG/ADL/KH	✓								
17	Sola 19	KJB/IG/KH	✓	✓			✓		✓		
30	TozRam 19	KJB/ADG/TH	✓	✓		✓					
31	Turatti 17	IG/ADL/KH/TH	✓			✓		✓			
32	Turatti 18	JSM/ADL		✓	✓						
33	Turatti 19	KJB/DG/KH/TH		✓							
22	Wells 17	JSM/ADL	✓		✓	✓	✓				
23	Wells 18	IG/ADL/KH	✓				✓				
24	Wells 19	KJB/DG/TH	✓		✓		✓				
18	Zilinski 17	JSM/ADL	✓		✓	✓	✓				
19	Zilinski 18	IG/ADL/KK	✓			✓	✓				
20	Zilinski 19	KJB/KH	✓			✓	✓				

Analysis of Returns Per Taxpayer

To expedite the trial process, and to clarify how Mr. Castro's tax-reporting positions applied to each return reference in the indictment, the following information is provided for the benefit of the Court and the parties. The taxpayers are listed in alphabetical order, and when they have multiple returns, the returns are discussed chronologically.

Boggs, James:

Tax Year 2017

The data was acquired over the phone by Castro employee, Joshua Scott Milam, J.D., LL.M., on Wednesday, February 28, 2018, at 5:30pm CT using the 2017 Tax Interview Packet. Abraham DeLuna entered the data for the return on March 2, 2018, at 11:26am for 37 minutes. A proposal was sent to the taxpayer via email on March 5, 2018, at 2:30 pm CT. The proposal was approved by Mr. Boggs via email on March 5, 2018, at 3:27 pm CT. The tax return was filed on March 7, 2018. Mr. Boggs was provided a copy of the tax return on May 17, 2019. The total fee was \$4,499. Of that total, \$2,504 was for Section 119, \$1,560 for Unreimbursed Employee Expenses, and \$435 for Work-Connected Temporary Impairment Prevention Expenses.

<u>Location</u>	<u>Description</u>	<u>Amount</u>	<u>Explanation</u>
Schedule A	Other Expenses	\$13,950 of \$14,153	Kia Sorento ¹
Schedule A	Other Expenses	\$203 of \$14,153	Continuing Education = \$108 Pharmacy Board = \$40 Department of Health Licensing = \$55
Schedule A	Other Miscellaneous Deductions	\$9,015	Health Premiums = \$8,166 ² Deductibles & Copays = \$405 No Detail = \$231

¹ On the Schedule A, the Kia Sorento Vehicle was entered in the asset detail of the firm's tax software as "Asset 1." In the Form 2106 area of the tax software interface, it was also erroneously listed in the detail as "Asset 1," resulting in the Kia Sorento's depreciation mistakenly being treated as 100% business use rather than 52%, which was the business-use percentage that firm employees entered into the tax software's asset detail.

² This expense was moved to be reported on Schedule C but was not deleted from Schedule A in error.

			No detail = \$213
Schedule A	Unreimbursed Employee Expenses ³	\$2,008 of \$8,315	Work Tools = \$1,454 Work Clothing = \$277. Likely for special non-slip medical shoes. ⁴
Schedule A	Unreimbursed Employee Expenses	\$6,307 of \$8,315	Parking Fees and Tolls = \$1,855 Gas & Oil = \$2,028 Insurance = \$4,332
Schedule C	Depreciation	\$6,524	Toyota Tundra = \$6,524 ⁵
Schedule C	Employee Benefits	\$8,166	Health Premiums = \$8,166 ⁶
Schedule C	Utilities	\$7,598	Phone = \$937 RingCentral Fax = \$336 Cell Phone = \$2,087 AT&T Wifi = \$684 Orange County = \$841 Duke = \$2,713 ⁷

⁴ Although initially reported as “Work Tools,” the item was correctly moved it to the “Uniforms and Protective Clothing” section but was mistakenly not removed from the “Work Tools” item, unintentionally resulting in an erroneous duplication of the deduction.

⁵ Unknown to Mr. Castro at the time, the asset numbers in the firm’s tax software for this item were different, resulting in the software not applying the proper limit.

⁶ This expense was originally on Schedule A, but was moved to be reported on Schedule C because the taxpayer was self-employed. Staff erroneously failed to delete the item from Schedule A.

⁷ See Section 119 Position (which will be briefed separately in Defendant’s Trial Memorandum)

Tax Year 2018

The data was acquired over the phone by employee Tiffany Michelle Hunt, J.D., LL.M., on April 10, 2019, at 5:30 pm using the 2018 Tax Interview Packet. Abraham DeLuna entered the data for this return on April 10, 2019, at 6:02 pm CT for 23 minutes. Tiffany Michelle Hunt, J.D., LL.M., reviewed the return on Sunday, April 14, 2019, at 12:08 am. Because Hunt conducted the interview, it likely did not require a substantive review. The proposal was sent to the taxpayer via email on April 14, 2019, at 6:33pm CT. Mr. Boggs approved the proposal via email on April 14, 2019, at 6:56 pm CT. The tax return was filed on April 16, 2019. The fees were settled on May 8, 2019. Mr. Boggs was provided a copy on May 17, 2019. The total fee was \$2,999.

<u>Location</u>	<u>Description</u>	<u>Amount</u>	<u>Explanation</u>
Schedule C	Depreciation	\$30,711	“Toyota Tundra, Section 132” = \$9,787 “Kia Sorento, IRC 132” = \$20,924 ⁸
Schedule C	Employee Benefits Program	\$8,622	“Section 119, Interest” = \$4,889 “Health” = \$203 “Section 119, Utilities” = \$813 “Section 119 = Energy” = \$2,717
Schedule C	Office Expenses	\$7,885	UPS = 51 ⁹ USPS = 121 ¹⁰ Adobe = 156 ¹¹ Amazon = \$114 ¹²

⁸ The taxpayer indicated this vehicle was placed into service in the business, so it was manually deleted from Schedule A and placed under Schedule C. However, when the vehicle was moved to Schedule C, Abraham DeLuna, not being a tax professional, did not account for the change in the Adjusted Basis, which should have taken into account the \$13,950 depreciated in the prior year. This was a user error. Nevertheless, once on Schedule C, the firm elected to expense the vehicles under the *Home Concrete* legal theory that makes depreciation optional. Moreover, as listed on the return itself, the vehicle was also claimed pursuant to 26 U.S.C. § 132(d); hence, the reference to “Section 132” on the tax return.

⁹ This amount was specifically listed on a taxpayer-provided spreadsheet.

¹⁰ Listed on taxpayer-provided spreadsheet.

¹¹ Listed on taxpayer-provided spreadsheet.

¹² Listed on taxpayer-provided spreadsheet.

			<p>Business Phone = \$1,134¹³</p> <p>Ring Central Fax = \$336¹⁴</p> <p>Constant Contact = \$240¹⁵</p> <p>Fed Ex = \$267¹⁶</p> <p>Eset = \$114¹⁷</p> <p>Office Max = \$56¹⁸</p> <p>Chase Service Fee = \$300¹⁹</p> <p>Domain Name = \$20²⁰</p> <p>Online Brochure Rachk = \$49²¹</p> <p>Internet for Work = \$789²²</p> <p>Phone Usage = \$2,434²³</p> <p>Work Computer = \$1,705²⁴</p>
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¹³ Listed on taxpayer-provided spreadsheet.

¹⁴ Listed on taxpayer-provided spreadsheet.

¹⁵ Listed on taxpayer-provided spreadsheet.

¹⁶ Listed on taxpayer-provided spreadsheet.

¹⁷ Listed on taxpayer-provided spreadsheet.

¹⁸ Listed on taxpayer-provided spreadsheet.

¹⁹ Listed on taxpayer-provided spreadsheet.

²⁰ Listed on taxpayer-provided spreadsheet.

²¹ Listed on taxpayer-provided spreadsheet.

²² Listed on taxpayer-provided spreadsheet.

²³ Listed on taxpayer-provided spreadsheet.

²⁴ Listed on taxpayer-provided spreadsheet.

Schedule C	Taxes and Licenses	\$5,914	Real Estate [Taxes] = \$5,914
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Tax Year 2019

The data was acquired via uploaded documents and the 2019 Virtual Tax Interview on March 16, 2020, at 5:08 pm. David Garza entered the data for this return on March 17, 2020, at 5:40 pm CT for 41 minutes. Tiffany Michelle Hunt, J.D., LL.M., reviewed the return on March 27, 2020, at 5:24am for 54 minutes, and again at 8:07am CT for 1 minute. The proposal was sent via email on April 14, 2020. The client approved via email on April 14, 2020. The tax return was filed on March 31, 2020. The fees were paid on June 3, 2020. The client was provided a copy on June 5, 2020. The total fee was \$999.

<u>Location</u>	<u>Description</u>	<u>Amount</u>	<u>Explanation</u>
Schedule C1	Car and Truck	\$4,416	Gasoline = \$520 Oil Changes = \$144 Parking Fees = \$720 Conference Travel = \$763 ²⁵ Auto Insurance = \$2,234 Annual Registration = \$35
Schedule C1	Employee Benefits ²⁶	\$8,098	Rent Payment = \$1,689 HOA = \$1,125 Home Owners Insurance = \$1,795 Utilities = \$928 Duke Energy = \$3,371

²⁵ Listed in taxpayer-provided spreadsheet.

²⁶ See Sec. 119

Schedule C1	Interest	\$1,520	Mortgage Interest = \$1,520 ²⁷
Schedule C1	Office Expenses	\$8,812	UPS = \$93 ²⁸ USPS = \$167 ²⁹ FedEx = \$76 ³⁰ Adobe = \$156 ³¹ Amazon = \$114 ³² Ring Central Fax = \$336 ³³ Chase Service Fee = \$180 ³⁴ Domain Name = \$20 ³⁵ Online Brochure Rachk = \$49 ³⁶ Internet for Work = \$810 ³⁷ Home Office Expenses = \$4,299 ³⁸ Cell Phone = \$540 ³⁹ GoDaddy = \$27 ⁴⁰

²⁷ *Id.* This represents interest on employer-provided lodging.

²⁸ Taxpayer-provided spreadsheet.

²⁹ Taxpayer-provided spreadsheet.

³⁰ Taxpayer-provided spreadsheet.

³¹ Taxpayer-provided spreadsheet.

³² Taxpayer-provided spreadsheet.

³³ Taxpayer-provided spreadsheet.

³⁴ Taxpayer-provided spreadsheet.

³⁵ Taxpayer-provided spreadsheet.

³⁶ Taxpayer-provided spreadsheet.

³⁷ Taxpayer-provided spreadsheet.

³⁸ This was inadvertently listed in the wrong section of the return, but was a taxpayer-provided figure from the taxpayer-provided spreadsheet. *See* Sec. 119.

³⁹ Taxpayer provided spreadsheet states \$2,642. A lesser amount is actually reported.

⁴⁰ Taxpayer-provided spreadsheet.

			Biz [Business] Phone = \$769 ⁴¹ Office Max = \$127 ⁴² VistaPrint = \$241 ⁴³ WiFi = \$810 ⁴⁴
Schedule C1	Taxes and Licenses	\$4,008	Real Estate Taxes from Form 1098 = \$3,008 ⁴⁵ Franchise Fee = \$1,000 ⁴⁶
Schedule C2	Car and Truck	\$4,089	Gas = \$3120 Oil = \$144 Annual Registration = \$35 Parking = \$720 Vehicle Registration = \$70
Schedule C2	Employee Benefits	\$6,048	“12 DD #1” = \$3,456 “12 DD #2” = \$2,592 ⁴⁷
Schedule C2	Office Expenses	\$9,801	Google Suit[e] = \$82 ⁴⁸

⁴¹ Taxpayer-provided spreadsheet.

⁴² Taxpayer-provided spreadsheet.

⁴³ Taxpayer-provided spreadsheet.

⁴⁴ This item appears to be a staff error; an erroneous duplicate of the internet cost.

⁴⁵ See Sec 119.

⁴⁶ Taxpayer-provided spreadsheet.

⁴⁷ This item appears to be an erroneous staff effort.

⁴⁸ Taxpayer-provided spreadsheet.

			<p>Website = \$595 ⁴⁹</p> <p>Training & Education = \$1,273 ⁵⁰</p> <p>UPS = \$101 ⁵¹</p> <p>VistaPrint = \$193 ⁵²</p> <p>Prime Credit Solutions = \$950 ⁵³</p> <p>RE Classes = \$173 ⁵⁴</p> <p>Office Max = \$28 ⁵⁵</p> <p>Amazon = \$30 ⁵⁶</p> <p>BagMasters = \$254 ⁵⁷</p> <p>Uline = \$144 ⁵⁸</p> <p>National Pen = \$113 ⁵⁹</p> <p>iPad Air = \$766 ⁶⁰</p> <p>iPad Pro = \$1,377 ⁶¹</p> <p>Quill = \$114 ⁶²</p> <p>Staples = \$168 ⁶³</p>
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⁴⁹ Taxpayer-provided spreadsheet.

⁵⁰ Taxpayer-provided spreadsheet.

⁵¹ Taxpayer-provided spreadsheet.

⁵² Taxpayer-provided spreadsheet.

⁵³ Taxpayer-provided spreadsheet.

⁵⁴ Taxpayer-provided spreadsheet.

⁵⁵ Taxpayer-provided spreadsheet.

⁵⁶ Taxpayer-provided spreadsheet.

⁵⁷ Taxpayer-provided spreadsheet.

⁵⁸ Taxpayer-provided spreadsheet.

⁵⁹ Taxpayer-provided spreadsheet.

⁶⁰ Taxpayer-provided spreadsheet.

⁶¹ Taxpayer-provided spreadsheet.

⁶² Taxpayer-provided spreadsheet.

⁶³ Taxpayer-provided spreadsheet.

			Biz [Business] Phone = \$366 ⁶⁴ Cell Phone = \$2592 ⁶⁵ Checks = \$12 ⁶⁶ Workboots = \$140 ⁶⁷ Tools = \$330 ⁶⁸
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Clayton, Paul

Tax Year 2017

The data was acquired over the phone by Joshua Scott Milam, J.D., LL.M, using the 2017 Tax Interview Packet on April 13, 2018, at 7:30 pm CT. Abraham DeLuna entered the data for the return on April 14, 2018, at 5:47 pm for 17 minutes. The proposal was sent via email on April 16, 2018. The client approved the proposal via email on April 17, 2018. The tax return was filed on April 17, 2018. The client was provided a copy on May 29, 2018. The source of the Schedule C Gross Income was from two separate IRS Forms 1099-MISC from third-party clients of the taxpayer. The total fee was \$2,999. Of that total, \$2,248 was for Unreimbursed Employee Expenses and \$751 for childcare, which was disclosed as “Work-Related Family Supervision” on Statement 2 for Schedule A.

<u>Location</u>	<u>Description</u>	<u>Amount</u>	<u>Explanation</u>
Schedule A	Other Expenses	\$5,290	Workplace Goodwill Development [Meals] = \$800 ⁶⁹ Work-Related Family Supervision = \$4,490 ⁷⁰

⁶⁴ Taxpayer-provided spreadsheet.

⁶⁵ The Virtual Tax Interview reflects that the taxpayer indicated \$2,642.

⁶⁶ Taxpayer-provided spreadsheet.

⁶⁷ In the Virtual Tax Interview, the taxpayer answered “Yes” to the question “Did you have any other work clothing expenses, like work shoes or work boots?”

⁶⁸ In the Virtual Tax Interview, the taxpayer answered “Yes” to the question “Did you have any expenses for any equipment, instruments, or tools in 2019?”

⁶⁹ See Sec. 162 (which will be briefed separately in Defendant’s Trial Memorandum). The taxpayer stated he had business-like lunches once a week, resulting in an average bill of \$7.69 for 52 weeks. $7.69 \times 52 = 399.88$, which rounds up to \$400.

⁷⁰ See Sec. Childcare (which will be briefed separately in Defendant’s Trial Memorandum). This position was prominently disclosed and explained on the tax return at Statement 2 for Schedule A.

Schedule A	Unreimbursed Employee Expenses ⁷¹	\$6,999	Vehicle Expenses at <i>Cohan</i> 70% Estimate = \$3,501 ⁷² Vehicle Expenses at <i>Cohan</i> 70% Estimate = \$1,973 ⁷³ Depreciation from 2015 Listing of VW GTI = \$1,525
Schedule C	Depreciation	\$20,000	VW GTI = \$20,000 ⁷⁴
Schedule C	Gross Receipts	\$5,370	Form 1099-MISC for Nonemployee Compensation from First Baptist Church = \$1,000 Form 1099-MISC for Nonemployee Compensation from Brother Entertainment LLC = \$4,370
Schedule C	Supplies	\$6,771	Educator Expenses = \$962 ⁷⁵ Work Tools = \$5,809 ⁷⁶
Schedule C	Travel Expenses	\$862	Toll Charges = \$862
Schedule C	Employee Benefits	\$13,421	Child Care = \$5,500 ⁷⁷ Medical = \$7,247 Medical = \$454 Medical = \$220

⁷¹ See Sec. 162

⁷² See Sec. Software Error (which will be briefed separately in Defendant's Trial Memorandum). See Sec. Commut. (which will be briefed separately in Defendant's Trial Memorandum).

⁷³ *Id.*

⁷⁴ See Sec. Commut.

⁷⁵ This item represents \$962.36 for educator expenses as a teacher in tax year 2017.

⁷⁶ This represent \$1,488 for the taxpayer's cell phone service, \$549 for a new phone, \$1,019 for home internet at 20% business use, \$2,752 for work instruments and tools, and \$600 for uniform costs.

⁷⁷ According to the annual tax interview notes of Joshua Scott Milam, J.D., LL.M., the Claytons indicated they had \$9,490 in day care expenses and \$500 for babysitters for a total of \$9,990 that were "necessary to pursue employment." Of that \$9,900, firm staff determined that only \$5,500 applied to the music business with the remaining \$4,490 reported on Schedule A. See Sec. Childcare (which will be briefed separately in Defendant's Trial Memorandum).

Jackson, Angela*Tax Year 2017*

The data was acquired over the phone by Ismael Garza on March 2, 2018, at 11:00 am CT using the 2017 Tax Interview Packet. Abraham DeLuna entered the data for the return on March 2, 2018, at 2:29 pm CT for 9 minutes. The proposal was sent via email on March 12, 2019, at 1:05 am CT. In other words, this proposal was prepared in the late evening hours of Sunday night going into Monday morning after Castro worked approximately 15 hours straight. The client approved the proposal via email on March 14, 2018. The tax return was filed on March 14, 2018, but held in suspense prior to processing. The taxpayer was provided a copy on April 24, 2018. The taxpayer confirmed the content of the return with the IRS. Thereafter, it was released for processing. The total fee was \$2,999, which was entirely attributable to Unreimbursed Employee Expenses.

<u>Location</u>	<u>Description</u>	<u>Amount</u>	<u>Explanation</u>
Schedule A	Unreimbursed Employee Expenses, Work Tools ⁷⁸	\$2,400	Phone Usage = \$1,440 Home Internet for Work = \$960 ⁷⁹
Schedule A	Other Expenses	\$28,600	Workplace Goodwill Development [Meals] = \$2,600 ⁸⁰ Audi Q5, Expense Election = \$26,000 ⁸¹

Karavangelos, Christian*Tax Year 2017*

The data was acquired over the phone by Ismael Garza on Thursday, March 15, 2018, at 11:00 am CT. Abraham DeLuna entered the data for the return on March 15, 2018. The proposal was sent via email on March 23, 2018. The client approved the proposal via email on March 24, 2018. The tax return was filed on March 24, 2018. The total fee was \$1,999. Of that total, \$240 for

⁷⁸ See Sec. 162

⁷⁹ This item was with respect to tax year 2017 when any employee was permitted to deduct unreimbursed business expenses. The 2017 IRS Form 2106 instructions explicitly state: "Use Form 2106 if you were an employee deducting ordinary and necessary expenses for your job. See the flowchart below to find out if you must file this form. An ordinary expense is one that is common and accepted in your field of trade, business, or profession. A necessary expense is one that is helpful and appropriate for your business. An expense doesn't have to be required to be considered necessary."

⁸⁰ Taxpayer informed firm staff that she averaged \$10 per day for lunch with "co-workers, colleagues, or clients" and did so 5 days a week.

⁸¹ See Sec. Deprec. (which will be briefed separately in Defendant's Trial Memorandum).

Unreimbursed Employee Expenses, \$852 for Work-Related Impairment Prevention Expenses, and \$907 for Section 119 Self-Employed Self-Provided Lodging on the Premises.

<u>Location</u>	<u>Description</u>	<u>Amount</u>	<u>Explanation</u>
Schedule A, Line 21	Unreimbursed Employee Expenses ⁸²	\$6,765	<u>Work Tools = \$2050</u> Business Phone Usage = \$1,140 ⁸³ Tools = \$30 ⁸⁴ Business Internet Usage = \$840 ⁸⁵ Ink = \$40 ⁸⁶ <u>Form 2106 = \$4715</u> Tolls = \$1,040 ⁸⁷ Gas & Oil = \$1420 Car Repairs = \$650 Car Insurance = \$3180 At 70% ⁸⁸ business use, ⁸⁹ \$3,675.
Schedule A, Line 28	Work-Related Temporary	\$14,508	Annual Tax Interview = \$5,250 ⁹⁰

⁸² See Sec. 162. There was no limit on such deductions in 2017, and there was no requirement that the expense be associated with a reimbursement arrangement because, for tax years 2017 and prior, this category was typically deducted as a below-the-line miscellaneous itemized deduction pursuant to IRS forms.

⁸³ This amount reflects the taxpayer's response to the 2017 Tax Interview Packet: "What is your monthly cellular telephone bill?"

⁸⁴ This amount reflects the taxpayer's response to the 2017 Tax Interview Packet: "Now the next major topic is primarily for more hands-on types of employment. Did you have any expenses for any equipment, instruments, or tools in 2017? For example, if you're a nurse, this could include things like stethoscopes?"

⁸⁵ This amount reflects the taxpayer's response to the 2017 Tax Interview Packet: "Did you pay each month for your home Internet service? Would you say that you use your home Internet for any work-related items, such as doing research for doing work from home? If so, it's deductible as a home-office expense."

⁸⁶ This amount reflects the taxpayer's response to the 2017 Tax Interview Packet: "Did you purchase any new computer, laptop, phone, tablet, camera, printer, ink, paper, scanner, copier, fax, shredder, other office equipment or software in 2017?"

⁸⁷ This amount reflects the taxpayer's response to the 2017 Tax Interview Packet: "Did you have any Tollway charges are Toll Tag costs?" This was expressed by the taxpayer as \$2 one-way, indicating that \$4 round-trip each day was appropriate, which was incurred 5 days a week, 52 weeks a year, and resulted in a total of $4 \times 5 \times 52 = \$1,040$.

⁸⁸ This amount resulted from a software Error.

⁸⁹ See Sec. Commut.

⁹⁰ See Sec. Impair.

	Impairment Prevention Expenses		Form W-2, Box 12, Code DD = \$9258 ⁹¹
Schedule C, Line 14	Employee Benefit Programs	\$1,452	Mortgage Insurance = \$1,452 ⁹²

Tax Year 2018

The data was acquired over the phone by Ismael Garza on March 5, 2019, at 11:00 am CT using the 2018 Tax Interview Packet. Abraham DeLuna entered the data for the return on March 5, 2019. Kasondra Kay Humphreys CPA reviewed the return and changed data on March 16, 2019. Tiffany Michelle Hunt, J.D., LL.M., reviewed the return and changed data on March 17, 2019. John Anthony Castro reviewed the return that same day. The proposal was sent via email on March 17, 2019. The client approved the proposal via email on March 18, 2019. Tiffany Michelle Hunt, J.D., LL.M., accessed the return and changed data on March 21, 2019. This was most likely to add the newly acquired EIN for the photography business. The tax return was filed on March 26, 2019. The fees were fully paid on Thursday, April 18, 2019. Taxpayer was provided a copy on Monday, April 22, 2019. The total fee was \$1,499. Of that total, \$575 was for Unreimbursed Employee Expenses and \$924 for Section 119.

<u>Location</u>	<u>Description</u>	<u>Amount</u>	<u>Explanation</u>
Form 2106 (1-S), Line 10	Unreimbursed Employee Business Expenses ⁹³	\$4,611	Toyota Corolla = \$3700 ⁹⁴ Vehicle Insurance of \$1302 @ 70% ⁹⁵ Business Use ⁹⁶ = \$911
Form 2106 (2-T), Line 10	Unreimbursed Employee Business Expenses ⁹⁷	\$8,705	Nissan Sentra = \$6,542 ⁹⁸ Gas & Oil = \$620 Repairs = \$240 Insurance = \$1302 @ 70% ⁹⁹ Business Use = \$1,513

⁹¹ This amount resulted from a software Error.

⁹² See Sec. Section 119.

⁹³ See Sec. 162

⁹⁴ See Sec. Deprec.

⁹⁵ This amount resulted from a software Error.

⁹⁶ This amount resulted from a software Error. See also Sec. Commut.

⁹⁷ See Sec. 62

⁹⁸ See Sec. Deprec. The software inadvertently maintained different asset numbers, and thus the 70% limitation rate was not properly applied. As a result, as reported, the deduction should have been \$4,579 instead of \$6,542. The error resulted from a software error that Mr. Castro was unaware of at the time of preparation and filing.

⁹⁹ See Sec. Software error.

			Tolls = \$650 ¹⁰⁰
Schedule C, Line 14	Employee Benefits Program ¹⁰¹	\$7,163	Mortgage = \$5,116 Electricity = \$500 ¹⁰² Medical = \$1,547 ¹⁰³
Schedule C, Line 23	Taxes and Licenses	\$2,140	Real Estate Taxes for the Section 119 Property

Tax Year 2019

The data was provided via the 2019 Virtual Tax Interview completed by Christian Karavangelos on March 17, 2020, at 12:56 pm. Shortly thereafter, employee Kasondra Kay Humphreys CPA followed up with a phone call to gather additional details at 2:30 pm CT. David Garza entered the data for the return on March 18, 2020, at 10:27 am. Tiffany Michelle Hunt, J.D., LL.M., reviewed the return on March 27, 2020, at 7:18 am. The proposal was sent via email on April 2, 2020. The client approved the proposal via email on April 3, 2020. The tax return was filed on March 31, 2020. The fees were settled on Wednesday, June 3, 2020. The client was provided a copy on Wednesday, June 10, 2020. The total fee was \$2,999. Of that total, \$2,051 was for Unreimbursed Employee Expenses and \$448 for Section 119.

<u>Location</u>	<u>Description</u>	<u>Amount</u>	<u>Explanation</u>
Form 2106, Line 10	Unreimbursed Employee Expenses ¹⁰⁴	\$17,400	Gas & Oil = \$840 ¹⁰⁵ Toyota Corolla = \$15,600 ¹⁰⁶ Cell Phone = \$960 ¹⁰⁷
Schedule C, Line 8	Advertising	\$4,161	Advertising = \$150

¹⁰⁰ This amount reflects the taxpayer's response to the 2018 Tax Interview Packet = "Did you have any Tollway charges are Toll Tag costs?" The taxpayer responded with \$650, which would be \$1.25 one-way each day, \$2.50 per day, 5 days a week for 52 weeks.

¹⁰¹ See Sec. Section 119

¹⁰² Under the firm's reporting position, utilities that make the Section 119 lodging habitable are deductible.

¹⁰³ According to the 2018 Tax Interview Packet, this amount represents a \$47 dental co-pay and \$1,500 for "wife and daughter."

¹⁰⁴ See Sec. 62

¹⁰⁵ This amount resulted from a data-entry error by firm staff and should have been limited to the percentage of business use.

¹⁰⁶ See Sec. Deprec. This amount resulted from a data-entry error by firm staff and should have been limited to the percentage of business use.

¹⁰⁷ The taxpayer informed the firm that his monthly cell phone bill was \$80. 80 x 12 = 960.

			<u>Charitable Marketing</u> ¹⁰⁸ Charitable Marketing, Church = \$1,935 Charitable Marketing, Kyle Stoughton (CRU) = \$300 Charitable Marketing, The Clark Family (CRU) = \$600 Charitable Marketing, Matt Navigato (AG) = \$480 Charitable Marketing, Maria (Compassion International) = \$456 Charitable Marketing, Z Radio = \$240
Schedule C, Line 14	Employee Benefits Program ¹⁰⁹	\$28,081	Section 119, Mortgage = \$1,224 ¹¹⁰ Section 119, Utilities, Electricity = \$2,193 ¹¹¹ Section 119, Utilities, Water = \$835 ¹¹² Section 119, Mandatory, HOA = \$150 ¹¹³

¹⁰⁸ See Sec. Chr. Mtg. (which will be briefed separately in Defendant's Trial Memorandum).

¹⁰⁹ See Sec. 119 (which will be briefed separately in Defendant's Trial Memorandum). This reporting position was disclosed and explained on IRS Form 8275.

¹¹⁰ *Id.*

¹¹¹ Under the firm's reporting position, utilities that make the Section 119 lodging habitable are deductible. The actual amounts was provided by the taxpayer to firm staff on a spreadsheet.

¹¹² *Id.*

¹¹³ See Sec. 119

			Section 119, Mandatory, Home Insurance = \$1,295 ¹¹⁴ Vision = \$140 ¹¹⁵ Dental = \$400 ¹¹⁶ 12DD = \$15,424 ¹¹⁷ 12DD = \$6,419 ¹¹⁸
Schedule C, Line 15	Insurance	\$1,396	Homeowner's Insurance = \$1,396 ¹¹⁹
Schedule C, Line 16a	Mortgage Interest	\$6,264	Mortgage Interest from Form 1098
Schedule C, Line 48	Other Expenses	\$2,145	\$750 = Other Expenses from Client-Provided Spreadsheet \$1395 = Mortgage Insurance Premiums ¹²⁰

Lampkin, Ahmad

Tax Year 2017

The data was acquired over the phone by Joshua Scott Milam, J.D., LL.M., on March 13, 2018, at 10:30 am CT using the 2017 Tax Interview Packet. Abraham DeLuna subsequently entered the data for the return on March 14-15, 2018. The proposal was sent via email on March 21, 2018. Mr. Lampkin approved the proposal via email on March 21, 2018. The tax return was electronically filed on March 24, 2018. An extension was mistakenly filed on April 25, 2018. The expected fee was \$2,999 but never collected due to Mr. Lampkin's outstanding tax debts and Department of Education debt.

¹¹⁴ See Sec. 163(h)(3)

¹¹⁵ See Sec. Impair.

¹¹⁶ *Id.*

¹¹⁷ Code DD.

¹¹⁸ *Id.*

¹¹⁹ See Sec. 163(h)(3) (which will be briefed separately in Defendant's Trial Memorandum). This item also reflects a data entry error.

¹²⁰ See Sec. 119.

<u>Location</u>	<u>Description</u>	<u>Amount</u>	<u>Explanation</u>
Schedule A, Line 21	Unreimbursed Employee Expenses ¹²¹	\$9,666	\$426 = Union Dues ¹²² \$480 = Home Internet for Work ¹²³ \$800 = Work Postage ¹²⁴ \$2,580 = Uniforms and Shoes ¹²⁵ \$2,880 = Dry Cleaning for Work ¹²⁶ \$2,500 = Uber & Lyft ¹²⁷
Schedule A, Line 23	Other Expenses	\$1,700	Workplace Goodwill Development (Meals) = \$1,000 \$250 = Christmas and Birthday Gifts to

¹²¹ See Sec. 162

¹²² This amount reflects the taxpayer's response to the 2017 Tax Interview Packet = "Did you have any membership fees for any professional organizations in 2017? This includes any union dues in 2017." The taxpayer stated \$426 in union dues.

¹²³ This amount reflects the taxpayer's response to the 2017 Tax Interview Packet = "Did you pay each month for your home Internet service? Would you say that you use your home Internet for any work-related items, such as doing research for doing work from home? If so, it's deductible as a home-office expense." The taxpayer stated \$480.

¹²⁴ This amount reflects the taxpayer's response to the 2017 Tax Interview Packet = "Did you have any work-related postage or mail expenses?" The taxpayer confirmed \$800 in work postage.

¹²⁵ This amount reflects the taxpayer's response to the 2017 Tax Interview Packet = "Did you have any expenses for any uniforms? This could include things like flame retardant clothing for welders or scrubs for medical professionals." The taxpayer confirmed \$2,580 in uniforms and work shoes, which was non-slip shoes.

¹²⁶ This amount reflects the taxpayer's response to the 2017 Tax Interview Packet = "Did you have any dry cleaning, tailoring, or altering expenses for any of the uniforms or work clothing?" The taxpayer stated \$2,880 for "dry cleaning for work."

¹²⁷ This amount reflects the taxpayer's response to the 2017 Tax Interview Packet: "Did you have any local transportation expenses, such as Uber, a Metro pass, railway, subway, or taxis?" The taxpayer stated \$2500, which would have been entered on Form 2106.

			Coworkers or Clients 128 \$500 = Conference Fees 129
Schedule A	Other Miscellaneous Deductions	\$9,141 130	\$1,746 = Health Insurance Premiums 131 Box 12 Code DD = \$7,395 132

Tax Year 2018

This return was filed in error. A draft return with mock numbers was inadvertently filed prior to finalization.

The data was acquired over the phone by Tiffany Michelle Hunt, J.D., LL.M., on April 4, 2019, at 5:30pm CT, using the 2018 Tax Interview Packet. Ms. Hunt uploaded it into the ProLaw database only 13 minutes later at 5:43pm CT. The tax return was inadvertently filed prior to finalization on April 29, 2019.

Amended Returns were paper-filed on June 17, 2019. Mr. Lampkin was notified of the amendments via email on June 25, 2019.

The 2018 1040X Amendment Explanation states: “Tax return filed in error prior to finalization. Removing all deductions.”

Table showing what was provided by Mr. Lampkin.

<u>Location</u>	<u>Description</u>	<u>Amount</u>	<u>Explanation</u>
Schedule A, Line 19	Gifts to Charity	\$7,520	“To Non Profit” = \$300

¹²⁸ This amount reflects the taxpayer’s response to the 2017 Tax Interview Packet = “*Did you have any expenses associated with gifts or entertainment related to any coworkers or clients in 2017?*” The taxpayer stated \$250 in various business gifts.

¹²⁹ This amount reflects the taxpayer’s response to the 2017 Tax Interview Packet = “*Did you have any expenses associated with any networking events or conferences in 2017? This could include the registration fees hotels meals with other colleagues at that conference or anything like that?*” The taxpayer confirmed \$500 for “conference fees.”

¹³⁰ This amount is supported by the taxpayer’s Form W-2, Box 12, Code DD, which were added to the amount that he stated for premiums in his 2017 Tax Interview Packet.

¹³¹ This amount reflects the taxpayer’s response to the 2017 Tax Interview Packet: “*How much would you say you paid in health insurance premiums 2017? This includes deductibles and co-pays.*” The taxpayer confirmed \$1,746.

¹³² See Sec. Software Error

			AMVET = \$2,620 ¹³³ \$500 = Volunteer Expenses ¹³⁴ Unknown = \$4,100
Schedule A, Line 21	Unreimbursed Employee Expenses	\$90,725	Error ¹³⁵

Meyer, John

Tax Year 2017

The data was acquired over the phone by Joshua Scott Milam, J.D., LL.M., on March 9, 2018, at 4:30 pm using the 2017 Tax Interview Packet. Abraham DeLuna entered the data for the return on March 11, 2018, at 3:38 pm CT for 41 minutes. The proposal was sent via email on March 17, 2018, at 12:16pm CT. The client approved the proposal via email on March 22, 2018. The tax return was filed on March 24, 2018. The fees were settled on July 23, 2018. The client was provided a copy on July 24, 2018. The total fee was \$5,999.

<u>Location</u>	<u>Description</u>	<u>Amount</u>	<u>Explanation</u>
Schedule A, Line 21 > Form 2106, Line 10	Unreimbursed Employee Expenses ¹³⁶	\$3,771	<u>John Meyer Vehicle Expenses</u> Gas & Oil = \$780 ¹³⁷ Repairs = \$2,422 ¹³⁸ Insurance = \$1,376 ¹³⁹ @ 70% ¹⁴⁰ Business Use ¹⁴¹ = \$3,205 <u>Kelly Meyer Vehicle Expenses</u>

¹³³ This amount reflects the taxpayer's response to the 2018 Tax Interview Packet: "Did you make any donations of property in 2018?" The taxpayer confirmed that he donated \$2,620 to AMVET, a non-profit veterans services organization.

¹³⁴ Volunteer expenses incurred while working with charitable organizations are deductible.

¹³⁵ This item results from an error in a mock draft return to determine at what point the Alternative Minimum Tax blocks the benefit of any further deductions.

¹³⁶ See Sec. 162.

¹³⁷ This amount reflects the taxpayer's response to the 2017 Tax Interview Packet = "On average, about how much did you spend on gas each week? Multiply this number by 52 to arrive at an estimated amount for the whole year." The taxpayer responded: \$15, so $15 \times 52 = \$780$.

¹³⁸ Firm intake notes indicate this was for "Explorer and Suburban."

¹³⁹ *Id.*

¹⁴⁰ See Sec. Software Error.

¹⁴¹ See Sec. Commut.

			Gas & Oil = \$260 ¹⁴² Repairs = \$549 @ 70% ¹⁴³ Business Use ¹⁴⁴ = \$566
Schedule A, Line 21 > Form 2106, Line 10	Other Expenses	\$7,516	“Workplace Goodwill Development” Meals = \$120 ¹⁴⁵ Deductible Investment Interest = \$1,156 ¹⁴⁶ Depreciation = \$6,240 ¹⁴⁷

Natt, Michael

The data was acquired over the phone by Ismael Garza on February 22, 2018, at 2:30pm using the 2017 Tax Interview Packet. Abraham DeLuna entered the data for the return on February 22, 2018. The proposal was sent via email on February 23, 2018. The outstanding proposal was deemed approved in accordance with the Tax Year 2017 Terms & Conditions on June 14, 2018. The tax return was filed on June 14, 2018. The fees were settled on or about July 24, 2018. The taxpayer was provided a copy of the return. The total fee was \$1,999. Of that total, \$1,699 was for Unreimbursed Employee Expenses and \$300 for Work-Connected Temporary Impairment Prevention Expenses.

<u>Location</u>	<u>Description</u>	<u>Amount</u>	<u>Explanation</u>
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¹⁴² This amount reflects the taxpayer’s response to the 2017 Tax Interview Packet = “On average, about how much did you spend on gas each week? Multiply this number by 52 to arrive at an estimated amount for the whole year.” The taxpayer responded: \$5, so $5 \times 52 = \$260$.

¹⁴³ See Sect Software Error.

¹⁴⁴ See Sec. Commut.

¹⁴⁵ This amount reflects the taxpayer’s response to the 2017 Tax Interview Packet = “There’s a misunderstanding in the public that work or business matters absolutely have to be discussed when it comes to meals and entertainment in order for it to be deductible. That’s entirely false. The reason it’s false is that a lot of times we don’t necessarily have breakfast or lunch or give a gift to somebody because we like them. In the work context, it’s because were trying to develop good relationships with our coworkers, superiors, or clients, so even though work or business may not have been specifically discussed, it was clearly business motivated. And for that reason, its deductible as goodwill development. In 2017, did you have any work-related meal expenses? Meals are generally considered a personal expense, but, if you had the lunch or breakfast at the worksite on a business trip or with other co-workers colleagues or clients, these qualify as job-related deductible business meals? So on average, how much would you say you spent on job-related breakfasts or lunches each week in 2017? And what was the average bill?” The taxpayer responded: 1 time per week, average bill of \$3 for only 40 weeks out of the year, so $1 \times 3 \times 40 = \$120$.

¹⁴⁶ See Sec. 163(h)(3).

¹⁴⁷ See Sec. Software Error.

Schedule A, Line 21, Statement 7	Unreimbursed Employee Expenses ¹⁴⁸	\$6,251	Uniforms and Work Clothing = \$1,040 ¹⁴⁹ <u>Work Tools = \$2,360</u> Phone Usage = \$1,440 ¹⁵⁰ Home Internet for Work = \$720 ¹⁵¹ Software = \$200 ¹⁵² <u>Form 2106 = \$2,851</u> Tollway and Tol Tag Charges = \$520 Gas & Oil = \$970 Repairs = \$200 Insurance = \$2,160 3300 @ 70% ¹⁵³ Business Use ¹⁵⁴ = \$2,331
Schedule A, Line 23	Other Expenses	\$15,648	Workplace Goodwill Development (Meals) = \$1,248 ¹⁵⁵

¹⁴⁸ See Sec. 162

¹⁴⁹ This amount reflects the taxpayer's response to the 2017 Tax Interview Packet: "Did you have any dry cleaning, tailoring, or altering expenses for any of the uniforms or work clothing?" Client confirmed \$1040 for dry cleaning.

¹⁵⁰ 2017 Tax Interview Packet: "What is your monthly cellular telephone bill? The reason we generally deduct this as business usage cell phone is because in our modern era it is almost a requirement to have a cell phone. If a person doesn't have a cell phone, I think they would find it very difficult to find a job and to keep that job because generally supervisors and executives one of the get in touch with their employees at any given time, so if you feel that that description fits your situation which it does about 99% of the time today, then yourself on his can be deductible." The legal reasoning was explained in the question. The taxpayer agreed and provided the \$1440 amount, which is an average of \$120 per month.

¹⁵¹ This amount reflects the taxpayer's response to the 2017 Tax Interview Packet: "Did you pay each month for your home Internet service? Would you say that you use your home Internet for any work-related items, such as doing research for doing work from home? If so, it's deductible as a home-office expense." The taxpayer confirmed and provided an amount of \$720.

¹⁵² This amount reflects the taxpayer's response to the 2017 Tax Interview Packet: "Did you purchase any new computer, laptop, phone, tablet, camera, printer, ink, paper, scanner, copier, fax, shredder, other office equipment or software in 2017?" The taxpayer confirmed and provided amount.

¹⁵³ See Sec. Software Error.

¹⁵⁴ See Sec. Commut.

¹⁵⁵ This amount reflects the taxpayer's response to the 2017 Tax Interview Packet: "There's a misunderstanding in the public that work or business matters absolutely have to be discussed when it comes to meals and entertainment in order for it to be deductible. That's entirely false. The reason it's false is that a lot of times we don't necessarily have breakfast

			Depreciation (Nissan Rogue) = \$14,400 ¹⁵⁶
Schedule A, Line 28	Work-Connected Temporary Impairment Prevention Expenses ¹⁵⁷	\$2,400	No details.

Putica, Michael

Tax Year 2019

On March 19, 2020, the data was provided by the client via the 2019 Virtual Tax Interview. Katherine Jean Barnes, J.D., LL.M., uploaded the data report into ProLaw. Between March 22-25, 2020, Alexander Gomez entered the data for the return. On March 25, 2020, Alexander Gomez and Michael exchange emails regarding Michael's wife's vehicle used in her piano tutoring business. On April 2, 2020, Tiffany Michelle Hunt, J.D., LL.M., and Kasondra Kay Humphreys CPA both reviewed the return. On April 7, 2020, the tax return was filed. On April 14, 2020, Tiffany sent the proposal via email. On June 10, 2020, the federal refund cleared settling the fee. On June 22, 2020, Michael was provided a copy of his 2019 Tax Return.

<u>Location</u>	<u>Description</u>	<u>Amount</u>	<u>Explanation</u>
Schedule 1, Line 11 / Form 2106, Line 6	Unreimbursed Employee Expenses ¹⁵⁸	\$47,160	<p>\$60k Vehicle @ 70% ¹⁵⁹ Business Use ¹⁶⁰ = \$42,000 ¹⁶¹</p> <p>\$2500 Gas \$400 Oil \$3100 Repairs @ 70% = \$4,200</p>

or lunch or give a gift to somebody because we like them. In the work context, it's because were trying to develop good relationships with our coworkers, superiors, or clients, so even though work or business may not have been specifically discussed, it was clearly business motivated. And for that reason, its deductible as goodwill development. In 2017, did you have any work-related meal expenses? Meals are generally considered a personal expense, but, if you had the lunch or breakfast at the worksite on a business trip or with other co-workers colleagues or clients, these qualify as job-related deductible business meals? So on average, how much would you say you spent on job-related breakfasts or lunches each week in 2017? And what was the average bill?" The taxpayer confirmed 5 days a week, average bill of \$4.80, for 52 weeks. $5 \times 4.80 \times 52 = \$1,248$.

¹⁵⁶ See Sec. Deprec. and Sec. Commut. The original purchase was \$24,000. The tax software made the determination to deduct 50% upfront and then depreciate the remaining \$12k over 5 years, so \$2,400 per year. This resulted in $\$12,000 + \$2400 = \$14,400$. However, the item was input in the incorrect section by firm staff, so the 70% business-use limit was not applied. If it had been placed in the correct section and fully expensed, the taxpayer could have deducted \$16,800.

¹⁵⁷ See Sec. Impair.

¹⁵⁸ See Sec. 162.

¹⁵⁹ See Sec. Software Error.

¹⁶⁰ See Sec. Deprec.

¹⁶¹ See Sec. Commut.

			Cell Phone = \$960 ¹⁶²
Schedule E, Line 6	Auto and Travel	\$5,800	Software Error ¹⁶³
Schedule C, Line 9	Car and Truck Expenses	\$6,340	Gas = \$3,000 Oil = \$240 Tires = \$900 Insurance = \$2200 ¹⁶⁴
Schedule C, Line 13	Depreciation	\$38,000	Mazda CX- = \$38,000 ¹⁶⁵
Schedule C, Line 14	Employee Benefit Programs ¹⁶⁶	\$36,576	Section 119 Lodging Principal = \$4,268 Section 119 Loan-Mandated Insurance = \$913 Section 119 HOA = \$2,800 Section 119 Utilities = \$4,536 ¹⁶⁷ Vision = \$500 ¹⁶⁸ Routine Medical Check-Ups = \$6,972 ¹⁶⁹ 12DD = \$16,587 ¹⁷⁰
Schedule C, Line 18	Office Expenses	\$905	Client Spreadsheet = \$55 Cell Phone = \$600 ¹⁷¹

¹⁶² The taxpayer provided this information during the 2019 Virtual Tax Interview and indicated that his monthly cell bill was \$80, so $80 \times 12 = \$960$.

¹⁶³ See Sec. Software Error.

¹⁶⁴ See Sec. Software Error. This item also reflects a data entry error.

¹⁶⁵ See Sec. Deprec. Data entry error.

¹⁶⁶ See Sec. 119 This position was prominently disclosed and explained on Form 8275.

¹⁶⁷ See Sec. 119

¹⁶⁸ See Sec. Impair.

¹⁶⁹ This items appears to result from an error.

¹⁷⁰ See Sec. Software Error.

¹⁷¹ This reflects the amount that the taxpayer provided firm staff during the 2019 Virtual Tax Interview. The taxpayer indicated his wife's monthly cell bill was \$50, so $50 \times 12 = \$600$.

			Newspapers = \$250 ¹⁷²
Schedule C, Line 22	Supplies Expenses	\$31,797	Client Spreadsheet = \$31,796.63 ¹⁷³
Schedule C, Line 23	Taxes and Licenses	\$13,682	Form 1098 Real Estate Taxes ¹⁷⁴

Quigley, Brian

The data was acquired over the phone by Joshua Scott Milam, J.D., LL.M., on Friday, February 2, 2018, at 7:30 pm CT using the 2017 Tax Interview Packet. Abraham DeLuna entered the data for the return on February 5, 2018, at 2:48 pm for 20 minutes. The proposal was sent via email on February 7, 2018. The client approved the proposal via email on February 7, 2018. The tax return was filed on February 12, 2018. The fees were settled on March 15, 2018. The client was provided a copy of the tax return on May 16, 2018. The total fee was \$749. Of that total, \$408 was for Unreimbursed Employee Expenses and \$25 for Work-Connected Temporary Impairment Prevention Expense.

<u>Location</u>	<u>Description</u>	<u>Amount</u>	<u>Explanation</u>
Schedule A, Line 21	Unreimbursed Employee Expenses ¹⁷⁵	\$1,847	<u>Work Tools</u> Office Supplies = \$120 ¹⁷⁶ Projector for Classroom = \$600 ¹⁷⁷ <u>Form 2106</u> Gas & Oil = \$290 Insurance = \$1,320

¹⁷² This amount reflects the taxpayer's response to the 2019 Virtual Tax Interview = "Did you have any expenses associated with any subscription or research expenses associated with your job?" The taxpayer indicated \$250 in newspaper expenses for research.

¹⁷³ The taxpayer provided this information on a spreadsheet. A note in the firm's tax software suggests this may have been a piano. See Sec. Deprec.

¹⁷⁴ This amount reflects the taxpayer's response to the 2019 Virtual tax Interview = "Did you pay any real estate taxes in 2019?" The taxpayer said yes and provided \$13,682. See Sec. 119

¹⁷⁵ See Sec. 162

¹⁷⁶ This amount reflects the taxpayer's response to the 2017 Tax Interview Packet = "Did you purchase any new computer, laptop, phone, tablet, camera, printer, ink, paper, scanner, copier, fax, shredder, other office equipment or software in 2017?" Client responded with \$20 for "printer paper" and \$100 for "Miscellaneous Home School Materials." Joshua Scott Milam, J.D., LL.M., who conducted the interview, determined that this was linked with Mr. Quigley's job.

¹⁷⁷ This amount reflects the taxpayer's response to the 2017 Tax Interview Packet = "Did you purchase any new office desk chair furniture and equipment office supplies office machines like monitors are routers or any repairs and maintenance of any of those types of items in 2017?" The taxpayer responded: \$600 for "Projector for Classroom."

			@70% ¹⁷⁸ Business Use ¹⁷⁹ = \$1,127
Schedule A, Line 23	Other Itemized Deductions	\$6,843	“Workplace Goodwill Development” Meals = \$104 ¹⁸⁰ Continuing Education = \$900 ¹⁸¹ Home Office Expenses = \$2,400 Deductible Interest = \$1,020 ¹⁸² Depreciation = \$2,419

Ragsdale, Randolph and Robin

Tax Year 2017

The data was acquired over the phone by Ismael Garza on March 9, 2019, at 10:00 am CT using the 2017 Tax Interview Packet. Abraham DeLuna entered the data for the return on March 9-15, 2018. The proposal was sent via email on March 16, 2018. The client approved the proposal via email on March 26, 2018. The tax return was filed and accepted by the IRS on March 30, 2018. The client was provided a copy on May 3, 2018. The total fee was \$1,999. Of that total, \$1,455 was for

¹⁷⁸ See Sec. Software Error.

¹⁷⁹ See Sec. Commut.

¹⁸⁰ This amount reflects the taxpayer's response to the 2017 Tax Interview Packet = “*There's a misunderstanding in the public that work or business matters absolutely have to be discussed when it comes to meals and entertainment in order for it to be deductible. That's entirely false. The reason it's false is that a lot of times we don't necessarily have breakfast or lunch or give a gift to somebody because we like them. In the work context, it's because were trying to develop good relationships with our coworkers, superiors, or clients, so even though work or business may not have been specifically discussed, it was clearly business motivated. And for that reason, its deductible as goodwill development. In 2017, did you have any work-related meal expenses? Meals are generally considered a personal expense, but, if you had the lunch or breakfast at the worksite on a business trip or with other coworkers colleagues or clients, these qualify as job-related deductible business meals? So, on average, how much would you say you spent on job-related breakfasts or lunches each week in 2017? And what was the average bill?*” The taxpayer responded once a week (1), average bill of \$2 for all 52 weeks, so $1 \times 2 \times 52 = \$104$.

¹⁸¹ This amount reflects the taxpayer's response to the 2017 Tax Interview Packet = “*Did you have any personal professional development expenses in 2017? This could include self-education expenses like books at Barnes & Noble that are intended to make you better at your current profession and like that?*” The taxpayer responded with \$900 for “Home School Curriculum.” The amount was deducted in error.

¹⁸² See Sec. 163(h)(3). The amended return moved this item to be reflected on Schedule A, Line 13, and corrected the amount to \$1,026.

Unreimbursed Employee Expenses and \$544 for Work-Connected Temporary Impairment Prevention Expenses.

<u>Location</u>	<u>Description</u>	<u>Amount</u>	<u>Explanation</u>
Schedule A, Line 21, Statement 3	Unreimbursed Employee Expenses ¹⁸³	\$6,937	<u>Work Tools</u> Phone Usage = \$2,615 ¹⁸⁴ Home Internet Used for Work = \$477 ¹⁸⁵ Uniforms and Protective clothing = \$454 ¹⁸⁶ <u>Form 2106</u> Gas & Oil = \$2,145 Repairs = \$434 Insurance = \$2,265 Total of \$4,844 @ 70% ¹⁸⁷ Business Use ¹⁸⁸ = \$3,391
Schedule A, Line 23, Statement 2	Other Expenses	\$8,265	Workplace Goodwill Development (Meals) = \$1,404 ¹⁸⁹

¹⁸³ See Sec. 162

¹⁸⁴ This amount reflects the taxpayer's response to the 2017 Tax Interview Packet = "What is your monthly cellular telephone bill? The reason we generally deduct this as business usage cell phone is because in our modern era it is almost a requirement to have a cell phone. If a person doesn't have a cell phone, I think they would find it very difficult to find a job and to keep that job because generally supervisors and executives one of the get in touch with their employees at any given time, so if you feel that that description fits your situation which it does about 99% of the time today, then yourself on his can be deductible." The taxpayer confirmed and provided a specific figure: \$2,615.

¹⁸⁵ This amount reflects the taxpayer's response to the 2017 Tax Interview Packet = "Did you pay each month for your home Internet service? Would you say that you use your home Internet for any work related items, such as doing research for doing work from home? If so, it's deductible as a home-office expense." The taxpayer confirmed and stated \$477.

¹⁸⁶ This amount reflects the taxpayer's response to the 2017 Tax Interview Packet = "Did you have any expenses for any uniforms?³⁵ This could include things like flame retardant clothing for welders or scrubs for medical professionals." The taxpayer confirmed and provided an amount of \$454.

¹⁸⁷ See Sec. Software Error.

¹⁸⁸ See Sec. Commut.

¹⁸⁹ This amount reflects the taxpayer's response to the 2017 Tax Interview Packet = "There's a misunderstanding in the public that work or business matters absolutely have to be discussed when it comes to meals and entertainment in order for it to be deductible. That's entirely false. The reason it's false is that a lot of times we don't necessarily have breakfast or lunch or give a gift to somebody because we like them. In the work context, it's because were trying to develop good relationships with our coworkers, superiors, or clients, so even though work or business may not have been specifically discussed, it was clearly business motivated. And for that reason, its deductible as goodwill development. In 2017, did you have any work-related meal expenses? Meals are generally considered a personal expense, but, if you had the lunch

			Work-Related Family Supervision = \$416 ¹⁹⁰ Qualified Deductible Legal Fees = \$729 ¹⁹¹ Depreciation (Statute of Limitations Applies) = \$5,716
Schedule A, Line 28	Other Miscellaneous Deductions	\$4,373	Work-Connect Temporary Impairment Prevention Expenses = \$4,373 ¹⁹²

Tax Year 2018

The data was acquired over the phone by Ismael Garza on April 9, 2019, at 5:00 pm CT using the 2018 Tax Interview Packet. Abraham DeLuna entered the data for the return on April 9, 2019. Ismael entered more data for the return on April 26, 2019. The proposal was sent via email on May 2, 2019. The client approved the proposal via email on May 2, 2019. The tax return was filed on May 10, 2019. The client paid the fee on or about June 4, 2019. The client was provided a copy of his return on July 3, 2019. The total fee was \$3,499.

<u>Location</u>	<u>Description</u>	<u>Amount</u>	<u>Explanation</u>
Schedule 1, Line 11 > Form 2106, Line 6	Unreimbursed Employee Expenses, Randy ¹⁹³	\$26,416	Child Care Expenses = \$3,481 ¹⁹⁴ Tolls = \$51 ¹⁹⁵

or breakfast at the worksite on a business trip or with other coworkers colleagues or clients, these qualify as job-related deductible business meals? So on average, how much would you say you spent on job-related breakfasts or lunches each week in 2017? And what was the average bill?" The taxpayer indicated 5 times per week at \$4.40 average per bill for 52 weeks, so $5 \times 4.4 \times 52 = \1144 . Wife was 1 time per week at \$5 average bill for 52 weeks, so $1 \times 5 \times 52 = 260$. $1144 + 260 = \$1,404$ as reported.

¹⁹⁰ See Sec. Childcare. This was disclosed on the tax return in Statement 2 to Schedule A.

¹⁹¹ The 2017 Tax Interview Packet indicates these are legal fees.

¹⁹² See Sec. Impair.

¹⁹³ See Sec. 162.

¹⁹⁴ See Sec. Childcare.

¹⁹⁵ This amount reflects the taxpayer's response to the 2018 Tax Interview Packet = "The next section covers expenses you paid in connection with your job during the existence of reimbursement understanding with your employer. If it was your understanding with your employer that you would be allowed a reimbursement but did not actually receive a reimbursement, you can claim a deduction for it.... Did you have any Tollway charges or Toll Tag costs?" The taxpayer confirmed and provided a total of \$51 for tolls.

			<p>Work-Related Meal Expenses = \$2,860 ¹⁹⁶</p> <p>Goodwill Development (Gifts to Colleagues and Clients) = \$179 ¹⁹⁷</p> <p>Work Computer = \$880 ¹⁹⁸</p> <p>Phone Service for Work = \$2,246 ¹⁹⁹</p> <p>Research Expenses = \$25 ²⁰⁰</p> <p>Home Internet for Work = \$440 ²⁰¹</p>
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¹⁹⁶ This amount reflects the taxpayer's response to the 2018 Tax Interview Packet = "*There's a misunderstanding in the public that work or business matters absolutely have to be discussed when it comes to meals and entertainment in order for it to be deductible. That's entirely false. The reason it's false is that a lot of times we don't necessarily have breakfast or lunch or give a gift to somebody because we like them. In the work context, it's because we're trying to develop good relationships with our coworkers, superiors, or clients, so even though work or business may not have been specifically discussed, it was clearly business motivated. And for that reason, it's deductible as goodwill development. In 2018, did you have any work-related meal expenses? Meals are generally considered a personal expense, but, if you had the lunch or breakfast at the worksite on a business trip or with other coworkers colleagues or clients, these qualify as job-related deductible business meals? So, on average, how much would you say you spent on job-related breakfasts or lunches each week in 2018? And what was the average bill?*" The taxpayer provided 1 day per week, average bill of \$5, for 52 weeks, which totaled to \$260 for himself. For his wife, he indicated 5 days per week, average bill of \$10, for 52 weeks, which totaled \$2,600. Total reported was \$2,860.

¹⁹⁷ This amount reflects the taxpayer's response to the 2018 Tax Interview Packet = "*Did you have any expenses associated with gifts or entertainment related to any coworkers or clients in 2018?*" The taxpayer provided an amount of \$179.

¹⁹⁸ This amount reflects the taxpayer's response to the 2018 Tax Interview Packet = "*Did you purchase any new computer, laptop, phone, tablet, camera, printer, ink, paper, scanner, copier, fax, shredder, other office equipment or software in 2018?*" The taxpayer indicated he purchased a office computer for \$880.

¹⁹⁹ This amount reflects the taxpayer's response to the 2018 Tax Interview Packet = "*What is your monthly cellular telephone bill? The reason we generally deduct this as business usage cell phone is because in our modern era it is almost a requirement to have a cell phone. If a person doesn't have a cell phone, I think they would find it very difficult to find a job and to keep that job because generally supervisors and executives one of the get in touch with their employees at any given time, so if you feel that that description fits your situation which it does about 99% of the time today, then yourself on his can be deductible.*" The taxpayer confirmed and provided a precise amount of \$2,246.

²⁰⁰ This amount reflects the taxpayer's response to the 2018 Tax Interview Packet = "*Did you have any expenses associated with any subscription or research expenses associated with your job, such as magazines, newspapers, or publications? For example, a stock broker in New York having a subscription to the Wall Street Journal. You may actually enjoy reading the Wall Street Journal on a daily basis, but just because you like it doesn't mean that it's not deductible since it is a qualified research expenses associated with your job.*" The taxpayer confirmed and provided an amount of \$25 for "research."

²⁰¹ This amount reflects the taxpayer's response to the 2018 Tax Interview Packet = "*Did you pay each month for your home Internet service? Would you say that you use your home Internet for any work related items, such as doing research*"

			Postage = \$91 ²⁰² Work-Connected Temporary Impairment Prevention Expenses = \$6,967 ²⁰³ Gas & Oil = \$1,143 Insurance = \$2,708 @70% ²⁰⁴ Business Use = \$2,696 ²⁰⁵ Ford Escape Depreciation = \$6,500 ²⁰⁶
Schedule 1, Line 11 > Form 2106, Line 6	Unreimbursed Employee Expenses, Robin	\$9,594	Gas & Oil = \$957 @ 70% ²⁰⁷ Business Use ²⁰⁸ = \$670 Ford Escape Depreciation = \$8,924 ²⁰⁹

Tax Year 2019

The data was initially acquired over the phone by Katherine Jean Barnes, J.D., LL.M., on Friday, March 27, 2020, at 1 pm CT. Thereafter, Randolph Ragsdale completed the 2019 Virtual Tax Interview on Sunday, March 29, 2020, at 4:31 pm CT. Alexander Gomez entered the data for the return on April 2 -3, 2020. Katherine Jean Barnes, J.D., LL.M., reviewed the return on April 30, 2020, at 10:34 am CT and worked on it for 1 hour and 14 minutes. Thereafter, Tiffany Michelle Hunt, J.D., LL.M., reviewed the return the same day at 1:58 pm and worked on it for 48 minutes. The proposal was sent via email on May 2, 2020. The client approved the proposal via email on May 3, 2020. The tax return was filed on May 1, 2020. The fees were settled on July 10, 2020. The client

for doing work from home? If so, it's deductible as a home-office expense." The taxpayer confirmed and provided an amount of \$440.

²⁰² This amount reflects the taxpayer's response to the 2018 Tax Interview Packet = "Did you have any job-related postage or mail expenses?" The taxpayer confirmed and provided a precise amount of \$91 for "postage."

²⁰³ See Section Impair.

²⁰⁴ See Sec. DD Software Error.

²⁰⁵ See Sec. Deprec. Under Section 280F, because this vehicle use was more than 50%, Section 179 expense was permissible.

²⁰⁶ *Id.*

²⁰⁷ See Sec. DD Software Error.

²⁰⁸ See Sec. Commut

²⁰⁹ See Sec. Deprec.

was provided a copy on July 21, 2020. The total fee was \$5,999. Of that total, \$3,450 was for Unreimbursed Employee Expenses and \$2,549 for Work-Connected Temporary Impairment Prevention Expenses.

<u>Location</u>	<u>Description</u>	<u>Amount</u>	<u>Explanation</u>
Schedule 1 > Line 11 > Form 2106, Line 10	Unreimbursed Employee Expenses ²¹⁰	\$8,560	<p><u>Ford Escape Actual Expenses</u> ²¹¹</p> <p>Gas = \$676 ²¹² Oil Change = \$48 Repairs = \$922 Insurance = \$2,755 All @ 70% \$3,081</p> <p><u>Section 62(a)(2)(A)</u></p> <p>Childcare = \$4,293</p> <p>Phone Usage = \$796 ²¹³</p> <p>Dry Cleaning for Uniforms = \$390 ²¹⁴</p>
Schedule 1 > Line 11 > Form 2106, Line 10	Unreimbursed Employee Expenses ²¹⁵	\$29,070	<p><u>Ford Explorer</u></p> <p>Depreciation of \$39,112 at 70% = \$27,378 ²¹⁶</p> <p>Gasoline \$19/week \$988 Tires & Breaks = \$292 @70% Business Use = \$896</p>

²¹⁰ See Sec. 161. This position was disclosed and explained on IRS Form 8275.

²¹¹ Figures provided by the taxpayer via the 2019 Virtual Tax Interview.

²¹² The 2019 Virtual tax Interview asked what the taxpayer's weekly gasoline expenses were. The taxpayer indicated \$13 per week, so $13 \times 52 = 676$. 70% business use percentage.

²¹³ Virtual Tax Interview.

²¹⁴ Virtual Tax Interview.

²¹⁵ See Sec. 162 This position was disclosed and explained on IRS Form 8275.

²¹⁶ See Sec. Deprec.

			<u>Section 62(a)(2)(A)</u> Cell Phone Usage = \$796 ²¹⁷
Schedule A, Line 16	Other Itemized Deductions	\$30,586	<u>Work-Connected Impairment Prevention Expenses</u> ²¹⁸ Medical Check-Ups, Routine = \$1,496 Medications = \$400 Vision = \$190 Dental = \$140 Code 12 DD = \$28,360 ²¹⁹

River, Linda

Tax Year 2017

The data was acquired over the phone by Ismael Garza on March 13, 2018 at 5:00 pm CT using the 2017 Tax Interview Packet. Abraham DeLuna entered the data for the return on March 15, 2018, at 5:48 pm for 18 minutes. The proposal was sent via email on March 21, 2018. The client approved the proposal via email on March 21, 2018. The tax return was filed on March 24, 2018, at 1:14 pm. The fees were settled on August 9, 2018. The client was provided a copy on February 5, 2020. The total fee was \$2,999. Of that total, \$2,684 was for Unreimbursed Employee Expenses and \$315 for Work-Related Temporary Impairment Prevention Expenses.

<u>Location</u>	<u>Description</u>	<u>Amount</u>	<u>Explanation</u>
Schedule A, Line 21	Unreimbursed Employee Expenses ²²⁰	\$7,445	Uniforms and Protective Clothing = \$600 ²²¹ <u>Work Tools</u>

²¹⁷ Virtual Tax Interview.

²¹⁸ See Sec. Impair.

²¹⁹ See Sec. Software Error.

²²⁰ See Sec. 162.

²²¹ This amount reflects the taxpayer's response to the Annual Tax Interview question: "Did you have any expenses for any uniforms? This could include things like flame retardant clothing for welders or scrubs for medical professionals." The taxpayer was an insurance specialist for a hospital.

			Business Phone Usage = \$2760 ²²² Business Internet Usage = \$540 Ink = \$120 ²²³ Office Supplies = \$40 ²²⁴ <u>From Form 2106</u> Gas and Oil, \$1600 Repairs, \$500 Insurance. \$2736 Internal Safe Harbor of 70% ²²⁵ Business Use ²²⁶ Vehicle = \$3,385
Schedule A, Line 23	Other Expenses	\$19,400	Workplace Goodwill Development (i.e., meals) = \$10 a Day x 5 Days a Week x 52 Weeks in a Year = \$2,600 ²²⁷ Depreciation = \$16,800 ^{228 229}
Schedule A, Line 28	Other Miscellaneous Deductions	\$4,168 ²³⁰	Work-Related Temporary

²²² The taxpayer indicated that the average monthly bill was \$230, so $230 \times 12 = \$2,760$.

²²³ See Sec. 162. This amount reflects the taxpayer's response to the Annual Tax Interview question: "Did you purchase any new computer, laptop, phone, tablet, camera, printer, ink, paper, scanner, copier, fax, shredder, *other office* equipment or software in 2017?" The taxpayer indicated that she paid \$120 out of pocket for office ink.

²²⁴ See Sec. 162 This amount reflects the taxpayer's response to the Annual Tax Interview question: "Did you purchase any new *office* desk chair furniture and equipment *office* supplies *office* machines like monitors are routers or any repairs and maintenance of any of those types of items in 2017?" The taxpayer indicated that she paid \$40 out of pocket for office supplies.

²²⁵ See Sec. Software Errors.

²²⁶ See Sec. Commut.

²²⁷ Client reported an average of \$10 per day on lunch with colleagues, coworkers, and clients, and that she did that every workday. $10 \times 5 \times 52 = 2600$.

²²⁸ See Sec. Deprec. Sec. Software Error.

²²⁹ See Sec. Commut.

²³⁰ The Indictment states \$4,168 but amount was actually \$4,198.

			Impairment Expenses = \$4,198 ²³¹
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Tax Year 2018

The data was acquired by Ismael Garza on Saturday, March 9, 2019, at 3 pm. Abraham DeLuna entered the data for the return on March 11, 2019. Kasondra Kay Humphreys CPA reviewed the return on March 20, 2019. The vehicle was transferred to the correct section on this tax return. The proposal was sent via email on March 22, 2019. The client approved the proposal via email on March 22, 2019. The tax return was filed on March 27, 2019. All fees were paid on April 18, 2019. The taxpayer was provided a copy on April 29, 2019. The total fee was \$1,999. Of that total, \$173 was for Unreimbursed Employee Business Expenses and \$1,826 for vehicle error. Linda provided conflicting information regarding her vehicle. For tax year 2018, she told Ismael it was the same vehicle. However, during the tax year 2019 interview, Linda then says that the new Hyundai was purchased in 2018 for \$28,000.

<u>Location</u>	<u>Description</u>	<u>Amount</u>	<u>Explanation</u>
Schedule 1, Line 24	Unreimbursed Employee Expenses ²³²	\$32,018	<p>Work-Related Meal Expenses = \$1,560²³³</p> <p>Phone Usage = \$1,896²³⁴</p> <p>Home Internet for Work = \$540²³⁵</p> <p>Hyundai Elantra = \$25,200²³⁶</p> <p>Vehicle Expenses, Gasoline and Oil of \$1416 and Insurance of \$2616 at 70%²³⁷</p>

²³¹ See Sec. Impair

²³² See Sec. 162.

²³³ In the 2018 Tax Interview Packet, the taxpayer stated 5 days a week, average lunch tab of \$6 throughout the year. $5 \times 6 \times 52 = 1560$.

²³⁴ This amount reflects the taxpayer's response to the 2018 Tax Interview Packet: "What is your monthly cellular telephone bill? $158 \times 12 = 1896$."

²³⁵ This amount reflects the taxpayer's response to the 2018 Tax Interview Packet: "Did you pay each month for your home Internet service? Would you say that you use your home Internet for any work-related items, such as doing research for doing work from home? If so, it's deductible as a home-office expense." $45 \times 12 = 540$.

²³⁶ See Sec. Deprec. The Hyundai was removed from the wrong depreciation section and placed in the correct 2106 section. However, firm staff failed to enter the accumulated depreciation and incorrectly entered the "Date in Service." The 2019 Tax Packet indicates that the taxpayer purchased a Hyundai in 2018. This conflicts with entry "SAME" in the 2018 Packet. The 2019 Packet says the taxpayer bought a new Hyundai in 2018 for \$28,000.

²³⁷ See Sec. Software Error.

			Business Use ²³⁸ = \$2,822 ²³⁹
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Tax Year 2019

The data was acquired over the phone by Tiffany Michelle Hunt, J.D., LL.M., on February 15, 2020, using the 2019 Tax Interview Packet. Tiffany determined whether Linda's activity qualified as a business. Tiffany assisted Linda in acquiring an Employer Identification Number for her activity after determining Linda satisfied Sections 183 (Business v. Hobby Analysis) and 469 (Material Participation Analysis). David Garza entered the data for the return on February 21, 2020. Tiffany Michelle Hunt, J.D., LL.M. and Kasondra Kay Humphreys CPA reviewed the return on February 28, 2020. The proposal was sent via email on February 29, 2020, at 3:04pm CT. The client approved the proposal via email on February 29, 2020, at 6:01 pm CT. The tax return was filed on Sunday, March 1, 2020, at 11:17am CT. The client settled her fees on March 19, 2020. The client was provided a copy of the tax return on March 23, 2020. The total fee was \$1,499.

<u>Location</u>	<u>Description</u>	<u>Amount</u>	<u>Explanation</u>
Schedule A, Line 16	Other Itemized Deductions (Work-Related Temporary Impairment Prevention Expenses) ²⁴⁰	\$3,434	Premiums = \$1,626 Vision Expenses = \$434 Prescription Expenses = \$1,000 Dental Expenses = \$190 Medical Expenses = \$150 Medical Miles = \$34
Schedule C, Line 14	Employee Benefit Programs (Section 119) ²⁴¹	\$25,677	<u>General Note</u> Phone Usage = \$1,908 Internet = \$540 Computer = \$1,700 Kitchen Mixer = \$350

²³⁸ See Sec. Commut.

²³⁹ Error

²⁴⁰ See Sec. Impair. This position was disclosed and explained on Form 8275.

²⁴¹ See Sec. 119. This position was disclosed and explained on Form 8275.

			Mortgage = \$13,427 Water & Electricity = \$3,192 Tollway Costs = \$50 Vehicle Gas = \$1,300 Vehicle Oil = \$250 Vehicle Tires = \$478 Vehicle Insurance = \$2,406 Vehicle Registration Renewal = \$76
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Sola, Javier

Tax Year 2017

The data was acquired over the phone by Joshua Scott Milam, J.D., LL.M., on Monday, February 5, 2018, at 5:30 pm using the 2017 Tax Interview Packet. Abraham DeLuna entered the data for the return on February 6, 2018, at 6:25 pm CT for 29 minutes. The proposal was sent via email on February 7, 2018, at 10:40pm CT after working for nearly 14 hours straight. The proposal was approved via email on February 7, 2018, at 10:44 pm CT only 4 minutes later. The tax return was filed on February 13, 2018. The fees were settled on March 15, 2018. The taxpayer was provided a copy on May 16, 2018. The total fee was \$1,499.

<u>Location</u>	<u>Description</u>	<u>Amount</u>	<u>Explanation</u>
Schedule A, Line 21	Unreimbursed Employee Expenses ²⁴²	\$4,484	<u>Work Tools = \$1656</u> Business Phone = \$936 Internet Usage = \$720 <u>Form 2106 =</u> <u>\$2828²⁴³</u> Gas & Oil = \$2335 Repairs = \$805

²⁴² See Sec. 162

²⁴³ The make and model of the vehicle to which these expenses relate is not listed.

			Insurance = \$900 All @ 70% ²⁴⁴ Business Use ²⁴⁵ = \$2,828
Schedule A, Line 23	Other Expenses	\$598	Continuing Education = \$245 ²⁴⁶ Professional Exams & License Fees = \$222 ²⁴⁷ Qualified Deductible Legal Fees = \$131 ²⁴⁸
Schedule C, Line 9	Car and Truck Expenses	\$4,040	<u>Honda Civic</u> Gas, Oil, Repairs and Insurance = \$2335 + 805 + 900 = \$4,040 ²⁴⁹
Schedule C, Line 13	Depreciation	\$1,632	Depreciation for Honda Civic (Statute of Limitations Apply) = \$1,632
Schedule C, Line 14	Employee Benefits Program	\$2,348	Section 165 = \$1,700 ²⁵⁰ Health Reimbursement = \$240 ²⁵¹

²⁴⁴ See Sec. Software Error

²⁴⁵ See Sec. Commut.

²⁴⁶ According to the Annual Tax Interview Packet that was conducted while on the phone with the taxpayer, the question was “Did you have any continuing education, training, or certification expenses and 2017? This would include CLEs if you’re an attorney or anything like that?” and the taxpayer stated \$245 for a “Real Estate Continuing Education.”

²⁴⁷ According to the Annual Tax Interview Packet while on the phone with the taxpayer, the question was “Did you have any professional exam or license renewal fees in 2017?” and the taxpayer’s response that that this was \$222 for a “Real Estate Certification Exam.”

²⁴⁸ According to the Annual Tax Interview Packet this was \$110 for a new passport and an additional \$21 for a visa to enter the country of Turkey.

²⁴⁹ Data Entry Error.

²⁵⁰ According to the Annual Tax Interview Packet, “The next question is regarding casualty expenses. This covers theft and property damage. Theft is pretty straightforward. It doesn’t necessarily have to be reported to the authorities; as long as the theft took place and was not compensated by insurance. Property damage can be tricky. The basic idea is that it’s the value of the damage itself; not whether you paid for the repair. This can be as simple as a rock on the highway cracking your windshield or a storm causing a broken window. Anything like this in 2017?” The taxpayer’s response that that this was \$1400 for “Roof Damage Repairs” and \$300 for “Inspection for Mold.”

²⁵¹ Deducted in Error.

			Health Reimbursement = \$408 ²⁵²
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Tax Year 2018

The data was acquired over the phone by Ismael Garza on Tuesday, February 12, 2019, at 4 pm CT using the 2018 Tax Interview Packet. Abraham DeLuna entered the data for the return on February 13, 2019. Kasondra Kay Humphreys CPA reviewed the return on February 18, 2019. The proposal was sent via email on February 20, 2019. The client approved the proposal via email on February 21, 2019. The tax return was filed on February 26, 2019. The fees were settled on March 22, 2019. The taxpayer was provided a copy on March 22, 2019. The total fee was \$999.

<u>Location</u>	<u>Description</u>	<u>Amount</u>	<u>Explanation</u>
Schedule 1, Line 24 > Form 2106, Line 10	Unreimbursed Employee Expenses ²⁵³	\$7,224	<u>Section 62(a)(2)(A)</u> Work-Related Meals = \$1,560 ²⁵⁴ Work Phone = \$550 Phone Usage = \$936 Home Internet for Work = \$720 <u>Vehicle Expenses</u> Gas & Oil = \$2044

²⁵² Deducted in Error.

²⁵³ See Sec. 162. This position was disclosed and explained on Form 8275.

²⁵⁴ This amount reflects the taxpayer's response to the Tax Interview Packet = "Now, we understand that most people, including our firm, believed that Congress had abolished all itemized deductions, but the truth is that there were several hidden provisions that allow our firm to generate the same, if not better, results than last year, which we'll go over together.... We'll first start with some basic background information and then get to the more substantive questions regarding **job-related expenses that were not reimbursed under a company arrangement** ... Now the first major topic is going to be all of your UNREIMBURSED JOB-RELATED EXPENSES as mentioned before. ... There's a misunderstanding in the public that work or business matters absolutely have to be discussed when it comes to meals and entertainment in order for it to be deductible. That's entirely false. The reason it's false is that a lot of times we don't necessarily have breakfast or lunch or give a gift to somebody because we like them. In the work context, it's because we were trying to develop good relationships with our coworkers, superiors, or clients, so even though work or business may not have been specifically discussed, it was clearly business motivated. And for that reason, its deductible as goodwill development. In 2018, did you have any work-related meal expenses? Meals are generally considered a personal expense, but, if you had the lunch or breakfast at the worksite on a business trip or with other co-workers colleagues or clients, these qualify as job-related deductible business meals? So on average, how much would you say you spent on job-related breakfasts or lunches each week in 2018? And what was the average bill?" The taxpayer responded with 5 days per week with an average bill of \$6, 5 x 6 x 52 = 1560.

			Insurance = \$1020 At 70% Business Use = \$2145 Depreciation = \$1,313
Schedule C, Line 16a	Interest	\$7,842	Mortgage Interest from Form 1098 = \$7,842 ²⁵⁵
Schedule C, Line 48	Other	\$918	Mortgage Insurance Points = \$918 ²⁵⁶

Tax year 2019

The data was acquired over the phone by Katherine Jean Barnes, J.D., LL.M., on Friday, January 31, 2020, at 8:00 am. Ismael Garza entered the basic data for the return on February 4, 2020, at 2:30pm over a 23-minute period. After that, Alexander Gomez worked on the return on February 7, 2020, at 10:12am for 19 minutes and then again at 2:01pm for over 2 hours. Kasondra Kay Humphreys CPA reviewed the return on February 12, 2020, at 11:50am and worked on the return for 3 and a half hours. The proposal was sent via email on February 19, 2020. The client approved the proposal via email on February 19, 2020. Tiffany Michelle Hunt, J.D., LL.M., reviewed the return and changed data on February 24, 2020, at 10:39am CT for 14 minutes. The tax return was filed on March 4, 2020. The fees were settled on March 25, 2020. The taxpayer was provided a copy on March 31, 2020. The total fee was \$4,499.

<u>Location</u>	<u>Description</u>	<u>Amount</u>	<u>Explanation</u>
Schedule 1, Line 11 > Form 2106, Line	Unreimbursed Employee Expenses ²⁵⁷	\$6,671	<u>Employee Expenses</u> “Goodwill Development” Meals = \$200 ²⁵⁸

²⁵⁵ See Sec. 119.

²⁵⁶ *Id.* The tax software system automatically moved this item from the Form 1098 that was linked to the Schedule C and put it under Line 48, Other Expenses.

²⁵⁷ See Sec. 162

²⁵⁸ This amount reflects the taxpayer’s response to the 2019 Tax Interview Packet = “Now, we understand that most people, including our firm, believed that Congress had abolished all itemized deductions, but the truth is that there were several hidden provisions that allow our firm to generate the same, if not better, results than last year, which we’ll go over together.... We’ll first start with some basic background information and then get to the more substantive questions regarding job-related expenses that were not reimbursed under a company arrangement ...**The next section covers expenses you paid in connection with your job during the existence of reimbursement understanding with your employer. If it was your understanding with your employer that you would be allowed a reimbursement but did not actually receive a reimbursement, you can claim a deduction for it.** ... No. each Week Average Bill x 52 Estimated Annual Total .. Did you have any expenses associated with gifts or entertainment related to any coworkers or clients in 2019?” The taxpayer responded with \$200 for “Christmas dinner for church volunteers.”

			<p>Phone Usage (Half) = \$468 ²⁵⁹</p> <p>Home Internet for Work (Half) = \$390 ²⁶⁰</p> <p>Tolls = \$240 ²⁶¹</p> <p><u>Vehicle Expenses</u></p> <p>Gasoline = \$3,900 ²⁶² Oil = \$200 ²⁶³ Repairs = \$500 ²⁶⁴ Insurance = \$1,200 ²⁶⁵ @ 70% ²⁶⁶ Business Use ²⁶⁷ = \$4,060</p> <p>Depreciation (Statute of Limitations Apply) = \$1,313</p>
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²⁵⁹ This amount reflects the taxpayer's response to the 2019 Tax Interview Packet = "What is your monthly cellular telephone bill? The reason we generally deduct this as business usage cell phone is because in our modern era it is almost a requirement to have a cell phone. If a person doesn't have a cell phone, I think they would find it very difficult to find a job and to keep that job because generally supervisors and executives one of the get in touch with their employees at any given time, so if you feel that that description fits your situation which it does about 99% of the time today, then yourself on his can be deductible.." The taxpayer responded: \$78 per month, $78 \times 52 = \$936$. Half is \$468. The other half was added to Schedule C.

²⁶⁰ This amount reflects the taxpayer's response to the 2019 Tax Interview Packet = "Did you pay each month for your home Internet service? Would you say that you use your home Internet for any work related items, such as doing research for doing work from home? If so, it's deductible as a home-office expense." The taxpayer responded: \$65, $65 \times 12 = 780$. However, half was claimed here and the other half on Schedule C.

²⁶¹ This amount reflects the taxpayer's response to the 2018 Tax Interview Packet = "Did you have any Tollway charges are Toll Tag costs?" The taxpayer responded: \$240.

²⁶² This amount reflects the taxpayer's response to the 2019 Tax Interview Packet = "On average, about how much did you spend on gas each week? Multiply this number by 52 to arrive at an estimated amount for the whole year." The taxpayer responded with \$75, so $75 \times 52 = 3900$.

²⁶³ *Id.*

²⁶⁴ This amount reflects the taxpayer's response to the 2019 Tax Interview Packet = "Did you have any other repairs or maintenance costs associated with your work vehicle in 2018?" The taxpayer responded with \$500 for "brakes and maintenance." There was also \$900 for tires that was not entered by mistake.

²⁶⁵ This amount reflects the taxpayer's response to the 2019 Tax Interview Packet = "How much did you pay for your auto insurance last year? Payments for auto insurance are typically quarterly semiannually or annually, if you can't remember a specific number, you can just provide a reasonable good faith estimate and we can go with that for now." The taxpayer responded with \$2400, but because it was attributable to both his vehicle and his wife's, deduction for half: \$1200.

²⁶⁶ See Sec. Software Error.

²⁶⁷ See Sec. Commut.

Schedule C, Line 14	Employee Benefits Program ²⁶⁸	\$5,608	Dependent Care = \$2,800 ²⁶⁹ Insurance Premiums H&W (Husband and Wife) = \$1,728 ²⁷⁰ Insurance Premiums Kids = \$240 ²⁷¹ Prescriptions = \$420 Prescriptions = \$420
Schedule C, Line 16a	Interest	\$7,687	Mortgage Interest = \$7,687 ²⁷²
Schedule C, Line 17	Legal and Professional Services	\$1,000	Castro & Co. Fees = \$1,000
Schedule C, Line 21	Repairs and Maintenance	\$598	Oil Changes = \$200 ²⁷³ Plumbing = \$398 ²⁷⁴
Schedule C, Line 23	Taxes and Licenses	\$2,916	Ford Explorer Tax or Inspection = \$80 Real Estate Taxes = \$2,836 ²⁷⁵
Schedule C, Line 25	Utilities	\$858	Phone Usage (Half) = \$468 Internet Usage (Half) = 390
Schedule C, Line 27a > Line 48	Other	\$918	Mortgage Insurance Premiums = \$918 ²⁷⁶

²⁶⁸ See Sec. 119.²⁶⁹ See Sec. Childcare.²⁷⁰ Deducted in error.²⁷¹ *Id.*²⁷² See Sec. 119 This position was disclosed and explained on IRS Form 8275.²⁷³ See Sec. 119. Data Entry Error.²⁷⁴ See Sec. 119²⁷⁵ See Sec. 119²⁷⁶ See Sec. 119

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Tozeto-Ramos, Fabio*Tax Year 2019*

The data was acquired via the 2019 Virtual Tax Interview. Katherine Jean Barnes, J.D., LL.M., uploaded it on July 9, 2020, at 1:14 pm. Alexander Gomez entered the data for the return on July 9, 2020. The proposal was sent by Tiffany Michelle Hunt, J.D., LL.M., via email on July 10, 2020, at 5:04 pm CT. The client approved the proposal via email on July 15, 2020, at 12:26pm CT. The tax return was filed on July 30, 2020, at 2:31 pm. All fees were paid on September 17, 2020. Taxpayer was provided a copy on October 2, 2020; only 15 days later. This case involved a new U.S. tax resident with a spouse and dependents who did not have an IRS-issued Individual Taxpayer Identification Number (ITIN). The fee was \$7,999.

<u>Location</u>	<u>Description</u>	<u>Amount</u>	<u>Explanation</u>
Schedule 1, Line 11 Form 2106, Line 4	Unreimbursed Employee Expenses ²⁷⁷	\$9,350	Educator Expense = \$200 Amendment = \$9,150 ²⁷⁸
Schedule C, Line 8	Advertising	\$300	Networking = \$300 ²⁷⁹
Schedule C, Line 9	Car and Truck Expenses	\$4,540	Gas = \$2,080 Oil = \$60 Auto Insurance = \$2,000 Registration = \$400 ²⁸⁰
Schedule C, Line 13	Depreciation	\$21,000	Toyota Sienna = \$30,000 ²⁸¹
Schedule C, Line 14	Employee Benefit Programs ²⁸²	\$33,132	Rent / Mortgage = \$4,000 ²⁸³

²⁷⁷ See Sec. 162. This position was disclosed and explained on Form 8275.

²⁷⁸ The original return only claimed a standard deduction of \$12,200 when, in fact, the taxpayer was entitled to a standard deduction of \$24,400. To remedy this, \$9,150 was added to original return as an above-the-line deduction to adjust the AGI to reflect actual income.

²⁷⁹ See Sec. 162

²⁸⁰ This item was from the 2019 Virtual Tax Interview where the taxpayer indicated he had an average of \$40 per week in gas expenses. $40 \times 52 = \$2080$.

²⁸¹ See Sec. Deprec.

²⁸² See Sec.119. This position was disclosed and explained on Form 8275.

²⁸³ See Sec.119.

			“Sec 119 Work Related Meals” = \$2,340 ²⁸⁴ “Box 12 DD” = \$24,592 ²⁸⁵ Out of Pocket Medications = \$300 Dental = \$200 Other Medical = \$1700 ²⁸⁶
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Turatti, Federico*Tax Year 2017*

Joshua Scott Milam, J.D., LL.M., conducted the interview on February 19, 2018, at 1:30 pm CT. Abraham DeLuna entered the data for the return on February 20-27, 2018. Proposal was sent via email on February 26, 2018, at 10:39 pm CT. Proposal was approved via email on February 26, 2018, at 10:53 pm CT. Tax return was filed on February 28, 2018. Taxpayer was provided a copy on May 16, 2018. The total fee was \$9,999.

<u>Location</u>	<u>Description</u>	<u>Amount</u>	<u>Explanation</u>
Schedule A, Line 21	Unreimbursed Employee Expenses, See Statement 11 ²⁸⁷	\$8,482	<u>Work Tools = \$3500</u> Work Computer = \$2100 Office Furniture = \$200 Office Router = \$300 Work Internet Usage = \$900 Uniforms and Protective Clothing = \$2980 <u>Form 2106 = \$2002</u>

²⁸⁴ See Sec. 119

²⁸⁵ Deducted in error.

²⁸⁶ Deducted in error.

²⁸⁷ See Sec. 162

			70% ²⁸⁸ Business Use ²⁸⁹ Vehicle with Gas & Oil Expenses of \$2860 = $2860 \times .7$ = 2002
Schedule A, Line 28	Other "Miscellaneous" Deductions, See Statement 10	\$37,502	<u>Work-Connected Temporary Impairment Prevention Expenses²⁹⁰</u> = <u>\$37,002</u> Medications = \$300 Doctors = \$600 Vision-Related = \$500 Insurance = \$11,600 Health = \$3,012 "More Health" from Toyota Form W-2, Box 12, Code DD = \$30,346 ²⁹¹ Section 165 Deduction = \$500 ²⁹²

Tax Year 2018

The data was acquired over the phone by Ismael Garza on February 25, 2019, at 11 am CT using the 2018 Tax Interview Packet. Abraham DeLuna entered some of the data for the return on February 25, 2019. That same day, Kasondra Kay Humphreys CPA also entered data on February 25, 2019. Tiffany Michelle Hunt, J.D., LL.M., entered data and reviewed the return on February 27, 2019. Castro made some adjustments to the data on March 3, 2019. Tiffany prepared and sent the proposal via email on March 12, 2019, at 6:18pm CT. Proposal was approved via email on March 12, 2019, at 6:34 pm CT. Tax return was filed on March 14, 2019, and confirmed accepted by the IRS that same day. Taxpayer was provided a copy on April 10, 2019; only 27 days later after the

²⁸⁸ See Sec. Software Error.

²⁸⁹ See Sec. Commut.

²⁹⁰ See Sec. Impair

²⁹¹ Deducted in error.

²⁹² Deducted in error.

refund cleared. The total fee was \$20,999. Of that total, \$10,595 was for Section 119 Expenses, \$150 for Business-Connected Impairment Prevention Expense, \$75 for Child Care Expenses, \$5,627 for the Medical Expense Error, and \$5,863 for Unreimbursed Employee Expenses.

<u>Location</u>	<u>Description</u>	<u>Amount</u>	<u>Explanation</u>
Schedule C, Line 14	Employee Benefits Program ²⁹³	\$98,519	Mortgage Interest & Principal = \$45,600 Electricity = \$3,400 ²⁹⁴ Water = \$960 ²⁹⁵ Gas = \$1,800 ²⁹⁶ Section 119 Lodging Taxes = \$11,275 ²⁹⁷ Medical Impairment = \$1,000 ²⁹⁸ Medical Reimbursement = \$5,331 Medical Reimbursement = \$28,653 ²⁹⁹

Tax Year 2019

An Annual Tax Interview was scheduled for Katherine Jean Barnes, J.D., LL.M., on February 27, 2020, at 1 pm CT. However, Katie did not upload the 2019 Annual Tax Questionnaire until March 18, 2020. Therefore, it appears that Katie did not do the phone-based interview on February 27, 2020, at 1 pm CT. Instead, she made the client complete the 2019 Annual Tax Questionnaire. The metadata also reflects that the PDF document was modified in GMT Time Zone -5, which is the East Coast where Turatti was located. The client provided all data and checked the boxes confirming he watched the explanatory videos. David Garza entered the data for the return on March 20, 2020. Kasondra Kay Humphreys CPA reviewed the return for accounting compliance on March 21, 2020. Tiffany Michelle Hunt, J.D., LL.M., reviewed the return for legal compliance on March 21, 2020.

²⁹³ See Sec. 119.

²⁹⁴ See Sec. 119.

²⁹⁵ See Sec. 119.

²⁹⁶ See Sec. 119.

²⁹⁷ See Sec. 119.

²⁹⁸ See Sec. Impair.

²⁹⁹ According to the 2018 Tax Interview Packet, this was in the section Title "Sch A, Row 1, Medical and Dental Expenses." According to the taxpayer, \$28,653 was for his special needs daughter's out-of-state medical exams and \$5,331 was for hotels while in Chicago for medical reasons, \$33,984 in total.

The proposal sent via email on March 22, 2020, at 5:10 pm CT. Proposal was approved via email on March 22, 2020, at 6:51 pm CT. Tax return was filed on March 22, 2020. All fees were paid on May 14, 2020. Taxpayer was provided a copy on May 20, 2020. The total fee was \$24,999.

<u>Location</u>	<u>Description</u>	<u>Amount</u>	<u>Explanation</u>
Schedule C, Line 14	Employee Benefit Programs ³⁰⁰	\$116,480	Mortgage = \$63,207 ³⁰¹ “Sec 119 Homeowners Insurance” = \$2,225 ³⁰² “Sec 119, Utilities” = \$3,600 ³⁰³ Medical = \$26,105 ³⁰⁴ Vision = \$200 ³⁰⁵ “Box 12 DD” = \$21,143 ³⁰⁶
Schedule C, Line 16a	Interest	\$15,544	This is from IRS Form 1098, Mortgage Interest Statement, Line 1. It was linked to the Schedule C in accordance with the Section 119 legal position.
Schedule C, Line 17	Legal and Professional Services	\$21,000	These were Castro & Co.’s fees for tax preparation charged and paid for on or about April 10, 2019.
Schedule C, Line 23	Taxes and Licenses	\$11,262	This is from IRS Form 1098, Mortgage

³⁰⁰ See Sec. 119.

³⁰¹ See Sec. 119.

³⁰² See Sec. 119.

³⁰³ See Sec. 119.

³⁰⁴ See Sec. Impair.

³⁰⁵ See Sec. 162.

³⁰⁶ See Sec. Software Error.

			Interest Statement, Line 1. It was linked to the Schedule C in accordance with the Section 119 legal position.
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Wells, Crystal

Tax Year 2017

The data was acquired over the phone by Joshua Scott Milam, J.D., LL.M., on Saturday, March 24, 2018, at 2:30 pm using the 2017 Tax Interview Packet. Abraham DeLuna entered the data for the return on March 27, 2018, at 10:58 am CT. Castro reviewed the return on Saturday, March 31, 2018, at 12:55 am CT after working for 16 hours straight. Proposal was sent via email on Saturday, March 31, 2018, at 1:11am CT. Proposal was approved via email on April 5, 2018. Tax return was filed on April 6, 2018. The fees were settled on August 17, 2018. Taxpayer was provided a copy on November 2, 2018. The total fee was \$1,499.

<u>Location</u>	<u>Description</u>	<u>Amount</u>	<u>Explanation</u>
Schedule A, Line 21	Unreimbursed Employee Expenses ³⁰⁷	\$6,210	Uniforms and Protective Clothing (Scrubs and Non-Slip Shoes) = \$500 ³⁰⁸ Phone Usage = \$1,440 ³⁰⁹ Home Internet for Work = \$720 ³¹⁰

³⁰⁷ See Sec. 162

³⁰⁸ This amount reflects the taxpayer's response to the 2017 Tax Interview Packet = "Did you have any expenses for any uniforms? This could include things like flame retardant clothing for welders or scrubs for medical professionals. Did you have any other work clothing expenses, and this can include things like work shoes or work boots like nonslip shoes for medical professionals more steel-toed boots for construction." The taxpayer responded with \$300 for "Work Uniforms" and \$200 for "Work Shoes."

³⁰⁹ This amount reflects the taxpayer's response to the 2017 Tax Interview Packet = "What is your monthly cellular telephone bill? The reason we generally deduct this as business usage cell phone is because in our modern era it is almost a requirement to have a cell phone. If a person doesn't have a cell phone, I think they would find it very difficult to find a job and to keep that job because generally supervisors and executives one of the get in touch with their employees at any given time, so if you feel that that description fits your situation which it does about 99% of the time today, then yourself on his can be deductible." The taxpayer responded with \$120, 120 x 12 = 1440.

³¹⁰ This amount reflects the taxpayer's response to the 2017 Tax Interview Packet = "Did you pay each month for your home Internet service? Would you say that you use your home Internet for any work related items, such as doing research for doing work from home? If so, it's deductible as a home-office expense." The taxpayer responded with \$60, multiplied by 12 to get to \$720.

			Office Supplies = \$200 ³¹¹ <u>Form 2106 = 3350</u> Gas & Oil = \$1,100 ³¹² Repairs = \$600 ³¹³ Insurance = \$2400 @ 70% ³¹⁴ Business Use ³¹⁵ = \$2,870 Tolls = \$480 ³¹⁶
Schedule A, Line 23	Other Expenses	\$15,150	“Workplace Goodwill Development” (Meals) = \$150 ³¹⁷ Chevy Malibu Expensed Election = \$15,000 ³¹⁸
Schedule A, Line 28	Other Miscellaneous Deductions	\$4,820	Work-Connected Temporary Impairment

³¹¹ This amount reflects the taxpayer’s response to the 2017 Tax Interview Packet = “Did you purchase any new computer, laptop, phone, tablet, camera, printer, ink, paper, scanner, copier, fax, shredder, other office equipment or software in 2017?” The taxpayer responded with \$200 for “Office Supplies.”

³¹² This amount reflects the taxpayer’s response to the 2017 Tax Interview Packet = “On average, about how much did you spend on gas each week? Multiply this number by 52 to arrive at an estimated amount for the whole year.” Client responded: \$20 per week for 52 weeks, so $20 \times 52 = 1040$. The taxpayer also said 2 oil changes for \$30 each, so that’s \$60. $1040 + 60 = 1100$.

³¹³ The taxpayer indicated a new tire for \$100 and total other repairs and maintenance of \$500, resulting in $100 + 500 = 600$.

³¹⁴ See Sec. Software Error.

³¹⁵ See Sec. Commut.

³¹⁶ This amount reflects the taxpayer’s response to the 2017 Tax Interview Packet = “Did you have any Tollway charges are Toll Tag costs?” Client responded with \$480 for “Toll Charges.” This was likely expressed as an average, \$40/month.

³¹⁷ This amount reflects the taxpayer’s response to the 2017 Tax Interview Packet = “There’s a misunderstanding in the public that work or business matters absolutely have to be discussed when it comes to meals and entertainment in order for it to be deductible. That’s entirely false. The reason it’s false is that a lot of times we don’t necessarily have breakfast or lunch or give a gift to somebody because we like them. In the work context, it’s because were trying to develop good relationships with our coworkers, superiors, or clients, so even though work or business may not have been specifically discussed, it was clearly business motivated. And for that reason, its deductible as goodwill development. In 2017, did you have any work-related meal expenses? Meals are generally considered a personal expense, but, if you had the lunch or breakfast at the worksite on a business trip or with other co-workers colleagues or clients, these qualify as job-related deductible business meals? So on average, how much would you say you spent on job-related breakfasts or lunches each week in 2017? And what was the average bill?” The taxpayer responded: one time per week, average bill of \$2.88 for 52 weeks, so $1 \times 2.88 \times 52 = 149.76$, which the system rounded to \$150.

³¹⁸ See Sec. Deprec. The firm inadvertently failed to limit the deduction to only the business-use percentage.

			Prevention Expenses = \$4,820 ³¹⁹
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Tax Year 2018

The data was acquired over the phone by Ismael Garza on March 14, 2019, at 1 pm CT using the 2018 Tax Interview Packet. Abraham DeLuna entered the data for the return on March 14, 2019, at 2:26 pm CT for 63 minutes. Kasondra Kay Humphreys CPA reviewed the return on March 22, 2019, at 2:04 pm for 15 minutes and again on March 25, 2019, at 3:11 pm for 4 minutes. Castro reviewed the return on March 29, 2019, at 12:39 am for 2 minutes. Proposal was sent via email on March 30, 2019, at 5:59 pm. Proposal was approved via email on April 12, 2019, at 10:46 am. Tax return was filed on April 12, 2019. The fees were settled on May 8, 2019. Taxpayer was provided a copy on July 2, 2019. The total fee was \$500.

<u>Location</u>	<u>Description</u>	<u>Amount</u>	<u>Explanation</u>
Schedule 1, Line 24 > Form 2106, Line 10	Unreimbursed Employee Expenses ³²⁰	\$10,739	Tollway Charges = \$350 ³²¹ “Goodwill Development” (Gifts to Clients or Co- Workers) = \$200 Phone Usage = \$1680 ³²² License Expenses = \$100 ³²³

³¹⁹ See Sec. Impair.

³²⁰ See Sec. 162.

³²¹ This amount reflects the taxpayer’s response to the 2018 Tax Interview Packet = “Now, we understand that most people, including our firm, believed that Congress had abolished all itemized deductions, but the truth is that there were several hidden provisions that allow our firm to generate the same, if not better, results than last year, which we’ll go over together.... We’ll first start with some basic background information and then get to the more substantive questions regarding **job-related expenses that were not reimbursed under a company arrangement** ... Now the first major topic is going to be all of your UNREIMBURSED JOB-RELATED EXPENSES as mentioned before. ... Did you have any Tollway charges are Toll Tag costs?” The taxpayer responded: \$350.

³²² This amount reflects the taxpayer’s response to the 2018 Tax Interview Packet = “What is your monthly cellular telephone bill? The reason we generally deduct this as business usage cell phone is because in our modern era it is almost a requirement to have a cell phone. If a person doesn’t have a cell phone, I think they would find it very difficult to find a job and to keep that job because generally supervisors and executives one of the get in touch with their employees at any given time, so if you feel that that description fits your situation which it does about 99% of the time today, then yourself on his can be deductible.” The taxpayer responded with \$1680, expressed as \$140 per month.

³²³ This amount reflects the taxpayer’s response to the 2018 Tax Interview Packet = “Did you have any professional exam or license renewal fees in 2018?” The taxpayer responded with \$100 for “Nursing License.”

			<p>Home Internet for Work = \$720 ³²⁴</p> <p>Work Uniforms = \$300 ³²⁵</p> <p>Work Shoes = \$100 ³²⁶</p> <p><u>Vehicle Expenses</u></p> <p>Gas = \$1040 ³²⁷</p> <p>Oil = \$90 ³²⁸</p> <p>Brakes = \$100 ³²⁹</p> <p>Insurance \$2040 @ 70% ³³⁰ Business Use³³¹ = \$2,289</p> <p>Depreciation (Different Chevy Malibu) = \$5,000 ³³²</p>
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³²⁴ This amount reflects the taxpayer's response to the 2018 Tax Interview Packet = "Did you pay each month for your home Internet service? Would you say that you use your home Internet for any work-related items, such as doing research for doing work from home? If so, it's deductible as a home-office expense." The taxpayer responded with \$720, which would have been expressed as \$60 per month.

³²⁵ This amount reflects the taxpayer's response to the 2018 Tax Interview Packet = "Did you have any expenses for any uniforms? This could include things like flame retardant clothing for welders or scrubs for medical professionals." The taxpayer responded with \$300 for "scrubs."

³²⁶ This amount reflects the taxpayer's response to the 2018 Tax Interview Packet = "Did you have any other work clothing expenses, and this can include things like work shoes or work boots like non-slip shoes for medical professionals more steel-toed boots for construction?" The taxpayer responded with \$100 for "shoes." Because she works in a medical facility, these would have definitely been facility-approved non-slip shoes for medical environments.

³²⁷ This amount reflects the taxpayer's response to the 2018 Tax Interview Packet = "On average, about how much did you spend on gas each week?" The taxpayer responded with 20, so $20 \times 52 = 1040$.

³²⁸ This amount reflects the taxpayer's response to the 2018 Tax Interview Packet = "About how many times would you say you change your oil each year? And what's the average cost per change for you?" The taxpayer responded 3 at \$30 each, so 90 in total. $1040 + 90 = 1130$, which is what was reported.

³²⁹ This amount reflects the taxpayer's response to the 2018 Tax Interview Packet = "Did you have any entire tire changes or tire rotations in 2018, and if so, was a total cost for it?" The taxpayer responded with \$100 for "brakes." This was listed under Repairs.

³³⁰ See Sec. Software Error.

³³¹ See Sec. Commut.

³³² See Sec. Commut.

Tax Year 2019

The data was provided by Crystal Wells with the phone-based guided assistance of Katherine Jean Barnes, J.D., LL.M., on April 9, 2020, at 3 pm CT using the 2019 Virtual Tax Interview. David Garza entered the data for the return on April 10, 2020. Tiffany Michelle Hunt, J.D., LL.M., reviewed the return on April 13, 2020, at 1:14 pm for 68 minutes. Proposal was sent via email on April 23, 2020. Tax return was filed on April 22, 2020. The fees were settled on June 26, 2020. Taxpayer was provided a copy on July 6, 2020. The total fee was \$999. Of that total, \$900 was for Unreimbursed Employee Expenses and \$99 for Work-Connected Temporary Impairment Prevention Expenses.

<u>Location</u>	<u>Description</u>	<u>Amount</u>	<u>Explanation</u>
Schedule 1, Line 11 > Form 2106, Line 10	Unreimbursed Employee Expenses ³³³	\$9,382	<u>Vehicle Expenses</u> Gas = \$780 ³³⁴ Oil = \$80 ³³⁵ Tires and Breaks = \$200 ³³⁶ Insurance = \$8400 ³³⁷ @70% ³³⁸ Business Use ³³⁹ = \$6,622 <u>Other</u> Tollway Charges = \$800 ³⁴⁰ Phone Usage = \$1,560 ³⁴¹ Work Uniforms = \$400 ³⁴²
Schedule A, Line 16	Other Itemized Deductions	\$7,203	Work-Connected Temporary Impairment Prevention Expenses = \$7,203 ³⁴³

³³³ See Sec. 162.

³³⁴ See Sec. Commut.

³³⁵ See Sec. Commut.

³³⁶ See Sec. Commut.

³³⁷ See Sec. Commut.

³³⁸ See Sec. Software Error.

³³⁹ See Sec. Commut.

³⁴⁰ See Sec. Commut.

³⁴¹ See Sec. 162.

³⁴² See Sec. 162.

³⁴³ See Sec. Impair. This position was disclosed and explained on Form 8275.

In 2017, Ms. Wells identified a Chevy Malibu with a purchase price of \$17,400. In 2018, she identified a Chevy Malibu with a different purchase price of \$5,000. Now, for this 2019 return, she identifies a “Chrysler” Chevy Malibu with a purchase price of \$10,000. Ms. Wells appears to have been misleading. First with Joshua Scott Milam, J.D., LL.M. for tax year 2017, then Ismael Garza for tax year 2018, and then with Katherine Jean Barnes, J.D., LL.M. for tax year 2019.

Zilinski, Joseph

Tax Year 2017

The data was acquired over the phone by Joshua Scott Milam, J.D., LL.M., on Friday, March 9, 2018, at 5:30 pm CT using the 2017 Tax Interview Packet. Abraham DeLuna entered the data for the return on March 12, 2018, at 1:21 pm CT for 23 minutes and then again on March 16, 2018, at 2:44 pm CT for 4 minutes. Proposal was sent via email on March 18, 2018. Proposal was approved via email the same day on March 18, 2018. Tax return was filed on March 19, 2018. The fees were settled on April 11, 2018. Taxpayer was provided a copy on April 24, 2018. The total fee was \$1,499.

<u>Location</u>	<u>Description</u>	<u>Amount</u>	<u>Explanation</u>
Schedule A, Line 21	Unreimbursed Employee Expenses ³⁴⁴	\$9,219	Uniforms and Protective Clothing = \$550 ³⁴⁵ Phone Usage = \$2,280 ³⁴⁶ Home Internet for Work = \$540 Tolls = \$900 ³⁴⁷ <u>Joseph's Vehicle</u> Gas & Oil = \$2,360 ³⁴⁸

³⁴⁴ See Sec. 162

³⁴⁵ This amount reflects the taxpayer's response to the 2017 Tax Interview Packet = “Did you have any expenses for any uniforms? This could include things like flame retardant clothing for welders or scrubs for medical professionals. Did you have any other work clothing expenses, and this can include things like work shoes or work boots like nonslip shoes for medical professionals more steel-toed boots for construction?” Client responded with \$550 for “Uniforms.”

³⁴⁶ 2017 Tax Interview Packet = “What is your monthly cellular telephone bill? The reason we generally deduct this as business usage cell phone is because in our modern era it is almost a requirement to have a cell phone. If a person doesn't have a cell phone, I think they would find it very difficult to find a job and to keep that job because generally supervisors and executives one of the get in touch with their employees at any given time, so if you feel that that description fits your situation which it does about 99% of the time today, then yourself on his can be deductible.” The taxpayer responded with \$190 per month, so $190 \times 12 = \$2,280$. The actual precise amount was \$2,279.64.

³⁴⁷ See Sec. Commut.

³⁴⁸ This amount reflects the taxpayer's response to the 2017 Tax Interview Packet = “On average, about how much did you spend on gas each week? Multiply this number by 52 to arrive at an estimated amount for the whole year.” The

			Repairs = \$800 ³⁴⁹ Insurance = \$1,980 @70% ³⁵⁰ Business Use ³⁵¹ = \$3,598 <u>Kayla's Vehicle</u> Gas & Oil = \$1,840 ³⁵² Repairs = \$90 ³⁵³ @70% ³⁵⁴ Business Use ³⁵⁵ = \$1,351
Schedule A, Line 23	Other Expenses	\$17,750	“Workplace Goodwill Development” (Meals) = \$350 ³⁵⁶ Depreciation for \$15k Hyundai Tiburon = \$9,000 Depreciation for \$14k Nissan Rogue = \$8,400 ³⁵⁷

taxpayer responded: \$40 per week for 52 weeks, so \$2080. The client indicated 4 oil changes at \$70 each, so \$280. 2080 + 280 = \$2,360.

³⁴⁹ The taxpayer provided \$450 for “New Tires and Installation” and \$350 for “Radiator and Battery on Tiburon.”

³⁵⁰ See Sec. Software Error.

³⁵¹ See Sec “Commut.”

³⁵² This amount reflects the taxpayer’s response to the 2017 Tax Interview Packet = “On average, about how much did you spend on gas each week? Multiply this number by 52 to arrive at an estimated amount for the whole year.” Client responded: \$30 per week for 52 weeks, so \$1560. The taxpayer indicated 4 oil changes at \$70 each, so \$280. 1560 + 280 = \$1,840.

³⁵³ The taxpayer provided \$90 for “Battery on Rogue,” which was a reference to her Nissan Rogue.

³⁵⁴ See Sec. Software Error.

³⁵⁵ See Sec. Commut.

³⁵⁶ This amount reflects the taxpayer’s response to the 2017 Tax Interview Packet = “There’s a misunderstanding in the public that work or business matters absolutely have to be discussed when it comes to meals and entertainment in order for it to be deductible. That’s entirely false. The reason it’s false is that a lot of times we don’t necessarily have breakfast or lunch or give a gift to somebody because we like them. In the work context, it’s because were trying to develop good relationships with our coworkers, superiors, or clients, so even though work or business may not have been specifically discussed, it was clearly business motivated. And for that reason, its deductible as goodwill development. In 2017, did you have any work-related meal expenses? Meals are generally considered a personal expense, but, if you had the lunch or breakfast at the worksite on a business trip or with other co-workers colleagues or clients, these qualify as job-related deductible business meals? So on average, how much would you say you spent on job-related breakfasts or lunches each week in 2017? And what was the average bill?” The taxpayer responded: one time per week, average bill of \$6.73 for 52 weeks, so $1 \times 6.73 \times 52 = 349.96$, which the system rounded to \$350.

³⁵⁷ *Id.*

Schedule A, Line 28	Other Miscellaneous ³⁵⁸ Deductions	\$1,518	Work-Connected Temporary Impairment Prevention Expenses ³⁵⁹ = \$1,518
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Tax Year 2018

The data was acquired over the phone by Ismael Garza on Saturday, March 9, 2019, at 4pm CT using the 2018 Tax Interview Packet. Abraham DeLuna entered the data for the return on March 11, 2019, at 4:40 pm CT for 44 minutes. Kasondra Kay Humphreys CPA reviewed the return on March 20, 2019, at 11:11 am CT for 18 minutes. Proposal was sent via email on March 21, 2019. Proposal was approved via email on March 22, 2019. Tax return was filed on March 26, 2019. The fees were settled on April 18, 2019. Taxpayer was provided a copy on April 22, 2019. The total fee was \$1,999.

<u>Location</u>	<u>Description</u>	<u>Amount</u>	<u>Explanation</u>
Schedule A, Line 24 > Form 2106, Line 10	Unreimbursed Employee Expenses ³⁶⁰	\$13,302	Phone Usage = \$1,668 ³⁶¹ Home Internet for Work = \$1,416 ³⁶² Depreciation of Honda Civic = \$9,000 ³⁶³

³⁵⁸ This is a misnomer by the IRS. Line 28 is for Statutory Itemized Deductions other than "Miscellaneous Itemized Deductions," which are those specifically identified at Section 67(b)(1)-(12).

³⁵⁹ See Sec. Impair.

³⁶⁰ See Sec. 162

³⁶¹ This amount reflects the taxpayer's response to the 2018 Tax Interview Packet = "Now, we understand that most people, including our firm, believed that Congress had abolished all itemized deductions, but the truth is that there were several hidden provisions that allow our firm to generate the same, if not better, results than last year, which we'll go over together.... We'll first start with some basic background information and then get to the more substantive questions regarding **job-related expenses that were not reimbursed under a company arrangement** ... Now the first major topic is going to be all of your UNREIMBURSED JOB-RELATED EXPENSES as mentioned before. ... What is your monthly cellular telephone bill? The reason we generally deduct this as business usage cell phone is because in our modern era it is almost a requirement to have a cell phone. If a person doesn't have a cell phone, I think they would find it very difficult to find a job and to keep that job because generally supervisors and executives one of the get in touch with their employees at any given time, so if you feel that that description fits your situation which it does about 99% of the time today, then yourself on his can be deductible." The taxpayer responded with \$1,668, which was expressed as \$139 per month for 12 months, $139 \times 12 = 1668$.

³⁶² This amount reflects the taxpayer's response to the 2018 Tax Interview Packet = "Did you pay each month for your home Internet service? Would you say that you use your home Internet for any work-related items, such as doing research for doing work from home? If so, it's deductible as a home-office expense." The taxpayer responded with \$1,416, which would have been expressed as \$118 per month.

³⁶³ See Sec. Deprec

			<u>Vehicle Expenses</u> Gas & Oil = \$1,740 @70% ³⁶⁴ Business Use ³⁶⁵ = \$1,218
Schedule A, Line 24 > Form 2106, Line 10	Unreimbursed Employee Expenses	\$15,292	Depreciation (De Facto Expense) of Nissan Rogue = 12,600 ³⁶⁶ <u>Vehicle Expenses</u> Gas & Oil = \$1,280 Insurance = \$2,565 @70% Business Use ³⁶⁷ = \$2,692

Tax Year 2019

The data was provided by Joseph Zilinski on Thursday, February 24, 2020, after he completed the 2019 Tax Interview Packet and sent it to Katherine Jeane Barnes, J.D., LL.M., who had previously spoken with him on Thursday, February 20, 2020, at 6 pm CT. Kasondra Kay Humphreys CPA entered the data for the return and reviewed it on March 4, 2020, at 2:54pm CT for 41 minutes. Proposal was sent via email on March 10, 2020. Shortly thereafter, tax return was mistakenly filed on March 11, 2020, prior to client approval. Joseph later confirms via telephone that he wished to leave everything as-is. On July 14, 2019, Joseph paid the remaining out-of-pocket fee. He was provided a copy on July 14, 2020. The total fee was \$1,999.

<u>Location</u>	<u>Description</u>	<u>Amount</u>	<u>Explanation</u>
Schedule 1, Line 11 > Form 2106, Line 10	Unreimbursed Employee Expenses ³⁶⁸	\$15,538	Tolls = \$1,800 ³⁶⁹ Phone Usage = \$852 ³⁷⁰ Home Internet for Work = \$1,140 ³⁷¹

³⁶⁴ See Sec. Software Error.

³⁶⁵ See Sec. Commut.

³⁶⁶ See Sec. Deprec.

³⁶⁷ See Sec. Commut.

³⁶⁸ See Sec. 162.

³⁶⁹ See Sec. Commut.

³⁷⁰ See Sec. 162.

³⁷¹ See Sec. 119.

			<p>Honda Fit = \$10,000³⁷²</p> <p><u>Vehicle Expenses</u></p> <p>Gas & Oil = \$1,430³⁷³</p> <p>Insurance = \$1,064 @70% Business Use³⁷⁴ = \$1,746</p>
Schedule 1, Line 11 > Form 2106, Line 10	Unreimbursed Employee Expenses	\$15,653	<p>Mac Book Air = \$1,200³⁷⁵</p> <p>Phone Usage = \$850³⁷⁶</p> <p>Nissan Rogue = \$12,600³⁷⁷</p> <p><u>Vehicle Expenses</u></p> <p>Gas & Oil = \$1,430³⁷⁸</p> <p>@70% Business Use³⁷⁹ = \$1,001</p>

³⁷² See Sec. Deprec.

³⁷³ This amount reflects the taxpayer's response to the 2019 Self-Completed Tax Packet where asked "On average, about how much did you spend on gas each week?" Client-provided response: \$22.50, so $22.50 \times 52 = \$1170$. The taxpayer then provided 4 oil changes at 65 each, so $65 \times 4 = 260$. Finally, $1170 + 260 = \$1,430$.

³⁷⁴ See Sec. Commut.

³⁷⁵ See Sec. 162.

³⁷⁶ See Sec. 162.

³⁷⁷ See Sec. Deprec.

³⁷⁸ This amount reflects the taxpayer's response to the 2019 Self-Completed Tax Packet where asked "On average, about how much did you spend on gas each week?" Client-provided response: \$22.50, so $22.50 \times 52 = \$1170$. The taxpayer then provided 4 oil changes at 65 each, so $65 \times 4 = 260$. Finally, $1170 + 260 = \$1,430$.

³⁷⁹ See Sec. Commut.

Conclusions of Law

The defense contends that the only legal conclusion the Court need find is whether for each count of the indictment, the government has proven each element of the offense beyond a reasonable doubt.

The defense, particularly focusing on the element of willfulness, at the close of all the evidence will request the Court to find the defendant “not guilty” on all counts.

Respectfully submitted,

/s/ Franklyn Mickelsen
Franklyn Mickelsen
TX Bar No. 14011020
Brodén & Mickelsen
2600 State Street
Dallas, TX 75204
(214) 720-9552
(214) 720-9594 (facsimile)
mick@texascrimlaw.com

/s/ Jason B. Freeman
Jason B. Freeman
TX Bar No. 24069736
7011 Main Street
Frisco, TX 75034
(214) 984-3410
(214) 984-3409 (facsimile)

Attorneys for Defendant
John Anthony Castro

CERTIFICATE OF SERVICE

I, Jason Freeman, certify that on May 6, 2024, I caused a copy of the foregoing document to be served via electronic filing on all counsel of record.

/s/ Jason Freeman
Jason B. Freeman

